

THE CIVIL WAR WITHIN THE CIVIL WAR:
THE CHEROKEE NATION AND THE
THIRD INDIAN HOME GUARD
IN THE UNITED STATES CIVIL WAR

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ABSTRACT

The U.S. Civil War, immortalized through innumerable books, museums, films and historical monuments, was one of the most historically significant periods in U.S. history. Much like the rest of America, the Cherokee Nation was divided, leading to Cherokee soldiers fighting for both the Confederacy and Union Armies at the same time. The participation of the Cherokee Nation had lasting effects for the Cherokee people that continue to be felt in modern times. While several scholarly books have been written about the Confederate Cherokees, there has been little to no scholarly work written about the Union Cherokee soldiers. This thesis brings to light the participation of the Union Cherokee soldiers through the examination of the Cherokee Third Indian Home Guard, a regiment that served under both Confederate and Union Armies.

Using primary sources from the Cherokee Nation, United States Army records, and others who interacted with Cherokee soldiers, this thesis paints a picture of the Cherokee's participation in the Union ranks. It addresses the motivations for the Union Cherokee to fight in the Civil War, as well as the role of Cherokee history and internal conflicts in their decision to enter the war. It will also discuss how their army superiors viewed the Cherokee, how they viewed themselves as soldiers, and how the aftermath of the Civil War affects the Cherokee Nation today.

The Cherokee fought the war to advance their own agenda, regarding the sovereignty of the Cherokee Nation within their own borders. The Cherokee fought in their own way, often clashing with the more systematic formula used by the Union army. Despite their service, the Cherokee found their sovereignty attacked during treaty negotiations following the Civil War. In the ensuing negotiations, the Cherokee were required to sell a portion of their territory to the U.S. Government and absorb the Delaware Nation and the Cherokee Freedmen into the Cherokee Nation. The inclusion of the Delaware and Cherokee Freedmen has still been a point of contention in the fight for sovereignty for the Cherokee Nation in recent history.

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Chapter 1

Lines Drawn in the Sand

INTRODUCTION

On 19 December 2006, the U.S. District Court of Columbia ruled against the Cherokee Nation in their attempts to have the case of *Vann v Kempthorne* dismissed.¹ The plaintiffs, descendants of Cherokee Freedmen, were suing the Cherokee Nation for the restoration of their recently rescinded tribal rights. The Cherokee Nation, in an attempt to assert their own sovereignty within their own borders, had elected to disenfranchise these descendants of Cherokee Freedmen, preventing the Freedmen from voting in the 2003 Cherokee National election.² This act was in defiance of both the Treaty of 1866 and the Fifteenth Amendment of the U.S. Constitution. Following the U.S. Civil War, the Cherokee had agreed in new a treaty with the United States Government to give the recently emancipated Cherokee slaves the same rights as any Cherokee citizen. The Cherokee of today argue that this infringed upon their sovereign rights to set their own standards for Cherokee citizenship. They are using this issue to assert their rights as a sovereign nation within the United States of America. The sovereignty in question originated with the Cherokee Third Indian Home Guard during the U.S. Civil War. As my research will show, this abuse of Cherokee sovereignty was not what members of the Cherokee Third Indian Home Guard had fought and died for.

From 1861 to 1865, the United States was a divided nation swept up into a civil war. The U.S. Civil War, immortalized through innumerable books, museums, documentaries, films and historical monuments, was one of the most bloody and historically significant periods in U.S. history. Much like the majority of the United States population, the Native people were active participants in the Civil War. The Cherokee, in a similar manner as the rest of the United States, was a divided nation. When war broke out, the majority of the Cherokee, led by Chief John Ross, wished to stay neutral. Others, led by Stand Watie, wished to fight for the Confederacy. The Cherokee, due to geographical, political and internal factors, would eventually make treaties with the Confederate government, which led to the formation of the Cherokee Mounted Rifles.

¹ *Vann v. Kempthorne*, 07-5024 (Dis. of Col. Cir. 2008).

² *Vann v. Kempthorne*.

The Civil War presented the Cherokee Nation, although reluctant participants, with the opportunity to fight for their own cause, sovereignty. Over time, however, the majority of the Cherokee soldiers became disillusioned with the Confederate Army and deserted to form the Second and Third Indian Home Guard regiments of the Union Army.

While there have been several scholarly books written about Chief Stand Watie and the his First Cherokee Mounted Volunteers of the Confederate Army, there has been little to no scholarly work written on the Third Indian Home Guard. Why was that? Were the actions of the Cherokee Union soldiers less important? Or did they have less impact than their Confederate counterparts? This thesis addresses several related research questions: The role internal conflicts within the Cherokee Nation had in their participation in the war, the Civil War goals of the Cherokee, how Cherokee soldiers navigated the terrain of race and rank serving under both white and Cherokee officers, the role the Third Indian Home Guard played in securing the Indian Territory for the Union, and how the Cherokee used their involvement to strengthen their claim to Cherokee sovereignty in its aftermath. All of these questions have yet to be answered within academic circles.

It is important to address some of the terminology used throughout this thesis, notably the terms that are considered outdated such as ‘half-blood,’ ‘full-blood,’ and ‘civilized.’ The term ‘mixed blood’ refers to the children of liaisons between aboriginal women and European traders throughout post contact Cherokee history.³ These children typically became more economically successful and more fully embraced changes to the Cherokee culture. Although the literature typically replaces mixed-blood and full-blood with more modern terms such as Metis, I have chosen to use those terms used in both the secondary sources and in the primary sources by the Cherokee people themselves during the 1900s. In my opinion there has been no better alternative proposed at this time. My hope was to avoid any confusion between my writing and the source material. Civilization or ‘civilized’ refers to the civilization programs conducted by the U.S. Government to alter the Cherokee lifestyle that relied heavily upon hunting and communal living towards a more traditional Anglo-agricultural lifestyle. For the Cherokee, being civilized meant the adoption of written laws, economic wealth, and organized forms of

³ Gregory D. Smithers, *The Cherokee Diaspora: An Indigenous History of Migration, Resettlement, and Identity* (New Haven: Yale University Press, 2015), 42.

government.⁴ Considered the more “civilized” by government officials, the Cherokee and four other tribes formed as the Five Civilized Tribes.⁵ Again, the secondary and primary sources use this terminology to define the Cherokee Nation, and as such I will be using these terms throughout this thesis. Another important term in this thesis is the word ‘sovereignty.’ Sovereignty in the eyes of the Cherokee Nation was the authority or power to govern itself within its borders.⁶ For the Cherokee, this is the right to decide their own citizenship, issue their own laws, control their own land and retain the ability to dictate their own future. Throughout their history, especially after being ‘civilized,’ the Cherokee wished and expected to have this sovereign right acknowledged.

PRE-CONTACT

Before an analysis of the Third Indian Home Guard’s involvement in the Civil War, some questions need answers. In particular, who were the Cherokee? How did their internal division within the nation get started? And who were the principal players in the Cherokee’s Civil War experience? In the late 18th Century, the Cherokee people resided in the South Eastern part of the United States, around modern day Georgia, North Carolina, and Tennessee. The Cherokee people were an agricultural society who lived a sedentary lifestyle based on the cultivation of the three sister crops of maize (corn), beans, and squash.⁷ Cherokee communally owned their land, meaning everyone was entitled to a share of its rewards. While each family farmed their own garden, they were all required to give part of their harvest to a public granary, to be used collectively in times of need.⁸ Cherokee wealth was not based entirely upon the amount one owned; rather, on the amount that one shared with the community. The more a person could give, the more prestige that they could achieve.

The gender roles associated with the Cherokee people can be traced back to the first man and women Kana’ti and Selu. The story goes that Kana’ti once kept the family meat in a cave before accidentally releasing all the animals and condemning Cherokee men to hunt for meat.

⁴ Smithers, *The Cherokee Diaspora*, 87.

⁵ Patrick N. Mingos, *Slavery in the Cherokee Nation: The Keetoowah Society and the Defining of a People 1855-1867* (New York: Routledge, 2003), 36-7.

⁶ Smithers, *The Cherokee Diaspora*, 42.

⁷ Mingos, *Slavery in the Cherokee Nation*, 13.

⁸ *Ibid.*, 13-14.

Likewise, Selu produced corn and beans by rubbing her stomach.⁹ These creation stories instill Cherokee gender roles with Kana'ti representing the harvest of game, while Selu represents agriculture.¹⁰

In Cherokee agricultural society, women held positions of authority, as they were responsible for tending the fields and therefore had control of a valuable food supply. They each had their own private gardens that they tended along with the community crops.¹¹ The fact that this was a matriarchal society, one that traces family lineage through the mother's line, further supports the importance of women in their culture. Married men moved into the wife's home and assumed their family lineage.¹²

Men hunted and were responsible for the protection of the village. Following Kana'ti, Cherokee men were exceptional hunters of deer, turkeys and rabbit. A European explorer noted "the Indians never lack meat," owing no doubt to their skills as hunters.¹³ The Cherokee occasionally engaged in warfare with the Shawnee, Iroquois and Mvskoke.¹⁴ However, while European nations went to war over land or politics, the Cherokee fought over balance and tribal harmony. For example, if another clan or Native group killed a member of one's clan, then it was up to the members of the clan to return balance. This balance could be achieved by capturing someone to replace the lost member, usually someone from the group responsible for the initial death, or by killing a member of that group.¹⁵ The killing of one person to make up for the death of another is known as a blood oath in Cherokee society.¹⁶ However, since the other group would need to find balance as well they would most likely retaliate, making war a regular occurrence for the Cherokee people.¹⁷

⁹ Theda Perdue and Michael D. Green, *The Cherokee Removal: A Brief History with Documents: Second Edition* (Boston: Bedford/Martin's, 2005), 1-2.

¹⁰ Minges, *Slavery in the Cherokee Nation*, 13.

¹¹ Robert J. Conley, *The Cherokee Nation a History* (Albuquerque: University of New Mexico Press, 2005), 11.

¹² Carolyn Ross Johnston, *Cherokee Women in Crisis: Trail of Tears, Civil War, and Allotment, 1838-1907* (Tuscaloosa: University of Alabama Press, 2003), 12; Minges, *Slavery in the Cherokee Nation*, 13-15.

¹³ *Ibid.*, 14.

¹⁴ *Ibid.*, 15.

¹⁵ Perdue, *The Cherokee Removal*, 3-4.

¹⁶ Minges, *Slavery in the Cherokee Nation*, 17.

¹⁷ Perdue, *The Cherokee Removal*, 4.

Cherokee warfare differed greatly from European fighting. While European military operations were strictly regimented and structured, Cherokee war chiefs commanded the main battle itself, but the Cherokee warriors were free to go on “private expeditions (raids) to pillage houses or isolated farms”; Cherokee warriors had the freedom to come and go as they pleased.¹⁸ The Cherokee’s wars were fierce; prisoners taken were usually tortured.¹⁹ It was during these expeditions that warriors could perform tasks or endeavors to raise their prestige. This could be done through the acquisition of scalps or captives, showing the bravery and skill of the warrior who would get close enough to their enemies to obtain these trophies.²⁰ Both of these rewards could be achieved without the killing of members of the enemy’s tribe, therefore eliminating the need for blood oath to be taken up by the Cherokee’s enemies. These differences in warfare would later come into conflict with European style, when the Cherokee allied themselves with different European entities throughout North American history.

Cherokee politics was decentralized and clan based. Each clan was based around a head mother.²¹ Clans consisted of the woman and her husband, her daughters and their husbands and children, and any unmarried sons.²² Clans lived together in permanent villages, in order to better tend the community crop land. In the center of these villages were the town houses, large circular buildings big enough to hold many people. These large houses provided plenty of space for ceremonies or to discuss important issues. With a large fire roaring in the center of the town house, each member of the tribe, male or female, had the right to stand up and have their say in all major decisions.²³ These discussions would take as long as necessary for a consensus decision. That is not to say, however, that everyone’s word had equal weight. In discussions about going to war, the voices of great warriors or chiefs had greater weight.²⁴ This way of life gave the Cherokee their sense of identity; this traditional lifestyle was referred to by Cherokee people as the “old ways” during the Civil War period.

FIRST CONTACT

¹⁸ Minges, *Slavery in the Cherokee Nation*, 15.

¹⁹ Ibid., 15.

²⁰ Ibid., 15.

²¹ Smithers, *The Cherokee Diaspora*, 32.

²² Ibid., 16.

²³ Perdue, *The Cherokee Removal*, 2-3.

²⁴ Ibid., 3.

The earliest known contact with Europeans occurred in 1539, when Spanish explorer Hernando de Soto arrived within Cherokee territory.²⁵ The Cherokee people were no doubt curious when they first laid eyes on these strange-looking people with their metal hats and weird clothing. Where did they come from? And what did they want? De Soto's intentions became clear with the chains and shackles that he and his soldiers brought for kidnapping Cherokee people for the slave trade.²⁶ This act by De Soto revealed a common ideology held by the new visitors towards the Native inhabitants: Europeans considered themselves racially superior to the Native populations. This superiority ideology would be consistently used to go to war with various Native groups, which included the Cherokee, justifying the taking of their land, and the enslavement of the Native people.²⁷ This same ideology brought the Cherokee people into the European slave trade.

By the early 1700s, the use of Cherokee slaves in the slave trade surpassed the fur trade as the primary economic base in the Southeast. However, disease ravaged the Cherokee's populations and it also became too easy for the Cherokee slaves to escape and find places to hide.²⁸ Due to this fact, African slaves soon replaced the Cherokee slaves. While the introduction of African slaves was something new for the Cherokee, the idea of slavery was not. The Cherokee themselves were known to have slaves of their own, usually members of conquered nations, although the Cherokee idea of slavery differed from its European counterparts. Cherokee slaves were allowed to marry, dress well, and own possessions, and their children were considered free citizens of the nation.²⁹ The major difference between the two slave cultures was that the Cherokee economic base was not reliant on slavery.³⁰ Early in the trade when European African slaves fled their masters to seek shelter with the Cherokee, they were openly welcomed and quickly assimilated into their culture through inter-marriage.³¹ During the early stages of the slave trade, when both Cherokee and Africans were used as slaves, their common predicament brought the Cherokee and Africans closer together, which was not lost upon the slaveholders. Perhaps it was out of fear of the two groups forming a large alliance

²⁵ Ibid., 5.

²⁶ Mingos, *Slavery in the Cherokee Nation*, 21.

²⁷ Ibid., 21.

²⁸ Ibid., 24.

²⁹ Ibid., 10-1.

³⁰ Ibid., 11.

³¹ Ibid., 25.

that measures were put into place to divide them, which may have also played a part in the end of the Indian slave trade. New European settler's laws banned intermarriage, and prevented Africans from living in Native settlements, as well as the use of Native warriors to put down slave revolts.³² Europeans brought the institution of slavery that would dominate Southern North American economics for many years and would later be embraced by the Cherokee people themselves.

CIVILIZATION

By the 18th Century, the Cherokee were active participants in the fur and slave trade in the Southern part of what would become the United States. The British, French, and other colonial powers required Cherokee alliances during European conflict in North America. The Cherokee never had strict allegiances to any of the European powers; rather, they assessed the benefits of allying with a group and made their decision in their own interests.³³ However, after the Revolutionary War the new United States Government had to decide what to do with their Native population and the obstacle that they created to developing the new country. With their use as military allies no longer necessary, what would be the best solution to deal with the Natives and make room for settlement of the American frontier? The solution was civilization.

Following the Revolutionary War, the President, George Washington, and Secretary of War, Henry Knox, planned to "civilize" the Native populations by having them adopt American customs and ideals such as private property and Christianity.³⁴ This implied that the Natives were not inferior, but rather that it was their cultural and religious lifestyles that were inferior.³⁵ Knox believed that Native groups were their own sovereign nations and treated them as such.³⁶ Their land should not be taken without consent and approval; therefore a new technique was required to make way for the settlement of the young country. The hope was that if the Cherokee and other Native groups could adopt American ways, they would be welcomed by white American society, which would allow the Native groups to integrate as full-fledged

³² Ibid., 27.

³³ Perdue, *The Cherokee Removal*, 6.

³⁴ Ibid., 10.

³⁵ Ibid., 10-11.

³⁶ Ibid., 11.

American citizens. The implementation of this program was a joint venture between government officials and missionaries.

The missionaries were eager to do their part to civilize the Cherokee and other Native groups in the United States. They had a long-standing goal to convert or save the various Native groups from their heathen ways, but were discouraged by army officials that required the Natives as military allies. Now the Cherokee souls were open to be saved as long as the Cherokee people could be taught to embrace Christian faith and values. This required convincing the Cherokee people to abandon their low intensity collective agricultural lifestyle for the more labor intensive individualized European lifestyle.³⁷ In order to provide salvation for the Cherokee people, the missionaries opened schools and missions where they promoted raising livestock and plowing for the men, while introducing spinning tools and other domestic work for the women.³⁸

The Cherokee Nation for the large part took well to these cultural changes and soon had developed a new identity for themselves. The older generation must have been wise enough to see that their way of living was dying and that in order for the Cherokee people to survive they would have to embrace some change.³⁹ However, they were selective in which parts of the civilization process they embraced and which parts they chose to ignore. When presented with the opportunity to open missionary schools on Cherokee land, the elders agreed to do so with open arms for the educational values, but were not as interested in taking up the religious teachings that came with them.⁴⁰

A DIFFERENT LIFESTYLE

By the 1820s the changes within the Cherokee nation were quite visible; the most notable shift involved the status of women, who saw their power reduced. For example, the Cherokee Nation Council made a law that allowed property to be left to male heirs, showing a shift from a matriarchal society to a patriarchal one.⁴¹ This shift had begun long before the civilization programs, when Europeans gave Cherokee men predominant status during trading and times of

³⁷ Minges, *Slavery in the Cherokee Nation*, 33; William L. Anderson, *Cherokee Removal Before and After* (Athens: University of Georgia Press, 1991), 3.

³⁸ Minges, *Slavery in the Cherokee Nation*, 34; Anderson, *Cherokee Removal Before and After*, 3.

³⁹ Theda Perdue, *Cherokee Women: Gender and Culture Change, 1700-1835* (Lincoln: University of Nebraska Press, 1998), 112-3.

⁴⁰ Perdue, *The Cherokee Removal*, 13; Smithers, *The Cherokee Diaspora*, 63.

⁴¹ Minges, *Slavery in the Cherokee Nation*, 35.

war; it was only then that the Cherokee legalized such changes.⁴² Many mix-blooded Cherokee became educated, developed their own strong economy, and wrote a constitution with a government infrastructure similar to the United States that declared the Cherokee as sovereign nation-state.⁴³ They developed their own written language, called Sequoyah, and even published their own newspaper, *The Cherokee Phoenix*, published in both English and Cherokee.⁴⁴ While the Cherokee people did adopt many American customs, they did so without completely abandoning their own traditions; rather, they incorporated these changes into their traditional cultural customs. Men refused to tend the fields, believing that it was work for women, choosing instead to tend to livestock, which could be associated to their traditional role as hunters, while the women continued farming.⁴⁵ The Cherokee Nation continued to hold land communally, with no one person allowed to sell any of their given tract of land without approval of the Cherokee Council.⁴⁶ However, the most influential change came to the Cherokee economy through the introduction of African slaves as the primary sources of labor on the Cherokee plantations.

Slave labor allowed the Cherokee economic success and financial independence. Much like their Southern neighbors, the Cherokee owned large cotton plantations worked by a large African slave force. Before white settlers introduced slavery to the Cherokee, there appears to be “no evidence that the [Cherokee] made any distinction between Negro and white on the basis of skin color”, and it would be only the influence of other societies that brought ideologies of racial superiority into the Cherokee world view.⁴⁷ After the introduction of Christianity, Cherokee origin stories changed to include a multi-origin story that accommodated slavery. Under this new story, Africans were cursed to “work for the red and white man, and it has been so ever since”.⁴⁸ However, many of the old ways concerning Africans persisted. The Cherokee treated their slave class much different than their southern neighbors. Cherokee slaves were allowed to mix and mingle with other members of the tribe and were treated more like hired hands than as slaves, and they were worked without the use of abusive overseers.⁴⁹ Those who were slaves to

⁴² Ibid., 33.

⁴³ Perdue, *The Cherokee Removal*, 14-5; Smithers, *The Cherokee Diaspora*, 17, 65, 80.

⁴⁴ Morris L. Wardell, *A Political History of the Cherokee Nation, 1838-1907* (Norman: Norman University Press, 1977), 4.

⁴⁵ Perdue, *The Cherokee Removal*, 13.

⁴⁶ Ibid., 14.

⁴⁷ Minges, *Slavery in the Cherokee Nation*, 9.

⁴⁸ Ibid., 36.

⁴⁹ Ibid., 44.

the more conservative full-blood Cherokee worked a lot less than those owned by the more progressive mixed blood class, as the full blooded Cherokee expected less from their slaves.⁵⁰

Much like other Southern plantation owners, the Cherokee nation created an elite class based upon wealth that was inevitably connected to the amount of slaves that were owned. As was the case in the rest of the American South, those with the most wealth also had the most political influence in local matters.⁵¹ Members of this elite class included the Ross, Boundinat, and Ridge families. Most of this new Cherokee elite were of mix-blooded ancestry, and were more open to adopting new cultural ideals that clashed with the old Cherokee lifestyles. Perhaps in a throwback to the old matrilineal ways, the children of liaisons between white men and Cherokee women were welcomed into the Cherokee Nation as full members. For the most part, these mixed-blood Cherokee were more educated, and some travelled elsewhere in America to study. They returned home with their newfound knowledge to help with the progress of the Cherokee Nation and make themselves wealthy in the process. The mixed bloods would make up a large portion of the slave-holding Cherokee Nation; in 1835 twenty percent of the Cherokee population claimed European ancestry, while nearly seventy-five percent of all slaveholders claimed the same.⁵² Both the economic and political power gap brought the Cherokee slaveholders at odds with the more conservative members of the Cherokee society.⁵³

REMOVAL

Although the Cherokee had successfully “civilized” themselves, as was asked of them, with a thriving economic and political infrastructure, they had not been absorbed into American society as had been hoped by U.S. officials. Not only were they successful, but also in some regards they were even more successful than their white neighbors in the Southern United States. The new attitude developing in the 1820s, however, was that Native groups were racially inferior and could never assimilate into the American society.⁵⁴ These changes in attitudes came in part due to failure of the Cherokee to abandon their traditional communal lifestyle, but also due to a population boom in the South that created a demand for land.⁵⁵ This need for land garnered

⁵⁰ Ibid., 44.

⁵¹ Clarissa Confer, *The Cherokee Nation in the Civil War* (Norman: University of Oklahoma, 2007), 25.

⁵² Anderson, *Cherokee Removal Before and After*, 16; Minges, *Slavery in the Cherokee Nation*, 36.

⁵³ Confer, *The Cherokee Nation in the Civil War*, 26.

⁵⁴ Perdue, *The Cherokee Removal*, 15; Anderson, *Cherokee Removal Before and After*, 42-3.

⁵⁵ Perdue, *The Cherokee Removal*, 15.

support from Southern states. Their support may have been racially motivated, as southerners justified their slave economy through racism, which made them receptive to the theory that Natives were racially inferior as well.⁵⁶ Now groups like the Cherokee, refusing to sell their land, stood in the way of progress. The solution became removal.

In 1828, Andrew Jackson was elected President of the United States with strong support from southern voters, who believed that he would rid them of all of the Native groups in the area.⁵⁷ Georgia in particular was quite adamant about getting rid of the Cherokee, perhaps out of jealousy of the Cherokee's success. Georgian officials were well aware of the political challenge that the Cherokee presented regarding their removal. It was one thing to remove a 'savage Nation' from an area for the purpose of making room for settlement, as had been done in the past, but it was another thing to remove a 'civilized nation'. Jackson argued against treating Native groups as sovereign nations; rather, he felt that Native groups should be forced into compliance.⁵⁸ Jackson supported a Removal Bill, and on 28 May 1830, Congress passed the Indian Removal Act, giving the president the power to negotiate treaties to send Native groups west. Jackson applauded the Indian Removal Act as a means of protecting the Cherokee from "utter annihilation" through the generosity of the American Government.⁵⁹ In the meantime, Georgia began taking things into their own hands, nullifying Cherokee laws, banning missionaries, and forbidding public meetings within the Cherokee Nation, all while continuing to encroach upon Cherokee civil rights in hopes of encouraging the Cherokee to leave.⁶⁰ With their sovereignty threatened, the Cherokee Nation chose to resist the same way that any American would do: through the legal system.

Cherokee lawyers challenged the state's intrusions, arguing that Georgia law did not extend over Cherokee laws and rights. Many courts refused to rule, arguing that the Cherokee did not have legal standing because they were not regarded as a sovereign nation.⁶¹ The Georgia government banned any missionaries from entering the Cherokee Nation without first giving the State an oath of loyalty. In July 1831, Georgia officials arrested eleven missionaries trying to

⁵⁶ Ibid., 16.

⁵⁷ Anderson, *Cherokee Removal Before and After*, 30; Perude, *The Cherokee Removal*, 18.

⁵⁸ Ibid., 17.

⁵⁹ Andrew Jackson, *State of the Union Address*, December 6, 1830, in *The Cherokee Removal: A Brief History with Documents, Second Edition* (Boston, Massachusetts: Bedford/St. Martin's, 2005), 127-8.

⁶⁰ Mingos, *Slavery in the Cherokee Nation*, 48.

⁶¹ Smithers, *The Cherokee Diaspora*, 106; Conley, *The Cherokee Nation*, 133.

enter the Cherokee Nation; all but Samuel Worcester and Elizur Butler agreed to leave or to swear the oath.⁶² Unlike the Cherokee Nation, these missionaries did have legal standing in the eyes of the courts, and the case against Worcester made its way to the U.S Supreme Court. Chief Justice John Marshall ruled against Georgia, declaring that the “Cherokee nation...is a distinct community, occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force,” and further noting that the actions of Georgia officials were in direct violation of the treaties which “recognize the pre-existing power of the [Cherokee] nation to govern itself.”⁶³ The charges against Worcester were invalid and the Supreme Court reaffirmed the Cherokee Nation’s rights. However, Georgia officials simply decided to ignore this decision and President Jackson refused to enforce it, instead responding, "John Marshall has made his decision; now let him enforce it!"⁶⁴ Despite continued pressure from both state and federal officials, the Cherokee majority, under the leadership of Principal Chief John Ross, continued to resist removal by any means without resorting to violence. However, a small minority felt that they had seen the writing on the wall and decided to take matters into their own hands. That political divide created a large rift within the Cherokee Nation that would have repercussions during the Civil War.

BETRAYAL

The Treaty Party, as they became known, went against Ross to negotiate a removal treaty with the U.S. Government. Comprised mostly of wealthy mixed-blood plantation owners, this group met with government officials while Ross was in Washington, and signed the Treaty of New Echota on 29 December 1835.⁶⁵ It required that the Cherokee relinquish all eastern lands in exchange for new land west of the Mississippi, as well as a five million dollar payment and government aid for the first year in their new homeland.⁶⁶ Members of the Ridge, Boundinat, and Watie families headed the Treaty Party, which made up less than two percent of the

⁶² Ibid., 134-5.

⁶³ United States Supreme Court: Worcester v. Georgia, March 1832, in *The Cherokee Removal*, 83-4.

⁶⁴ Mingos, *Slavery in the Cherokee Nation*, 48.

⁶⁵ Anderson, *Cherokee Removal Before and After*, 69; Conley, *The Cherokee Nation*, 141.

⁶⁶ *Treaty with the Cherokees*, December 29, 1835, in *Indian Affairs: Laws and Treaties, Volume II, Treaties*, edited by Charles J. Kappler (Washington D.C: Government Printing Office, 1904), 440, 443.

Cherokee population. All Treaty Party members were slave owners, but did not hold as much political support as John Ross.⁶⁷

Ross, of mixed Scottish-Cherokee descent, had been well-educated and well-versed in business. He was an economic and political leader within the Cherokee community. However, what made Ross popular in the eyes of the Cherokee people was his leadership through the traditional custom of rule by consensus and the redistribution of his wealth back into the community, another sign that the Cherokee people had not completely abandoned “old ways”.⁶⁸ Perhaps it was out of jealousy that the Treaty Party members, many of whom were recently defeated in the 1830 Cherokee election, undermined Ross’s authority by meeting with the United States officials.⁶⁹ Despite arguments against the validity of the New Echota Treaty, the Senate ratified it in the spring of 1836.

The New Echota Treaty set up a two-year window for the Cherokee to emigrate. Treaty Party members took the opportunity to claim the best pieces of real estate and established themselves as political leaders in the new Cherokee Nation in Indian Territory (near Oklahoma).⁷⁰ The rest of the Cherokee stayed in the traditional homeland out of defiance. Those who stayed behind were rounded up at gunpoint and forcibly moved west.⁷¹ Unprepared for the long journey and the cold weather, many lost their lives on the march west; estimations vary from four thousand to eight thousand deaths along the “Trail of Tears.”⁷² Once all Cherokee arrived in their new home, in a throwback to the old blood oath tradition, they sought revenge on those who had betrayed them. One by one, Treaty Party members Major Ridge, his son John Ridge, and Elias Boundinot were tracked down and assassinated. Only Stand Watie managed to survive.⁷³ After years of fighting, John Ross and Stand Watie put aside their differences and both signed the Treaty of 1846, which united the two factions. The new treaty re-established both John Ross and the previous government from Georgia into power in the new

⁶⁷ Perdue, *The Cherokee Removal*, 21, 23.

⁶⁸ *Ibid.*, 23.

⁶⁹ *Ibid.*, 23; Anderson, *Cherokee Removal Before and After*, 70.

⁷⁰ *Ibid.*, 24, 168.

⁷¹ Conley, *The Cherokee Nation*, 149.

⁷² Minges, *Slavery in the Cherokee Nation*, 50; Wardell, *A Political History of the Cherokee Nation*, 11.

⁷³ W. Craig Gaines, *The Confederate Cherokees: John Drew’s Regiment of Mounted Rifles* (Baton Rouge: Louisiana State University Press, 1989), 4.

land, provided amnesty for all crimes prior to the signing of the treaty, and gave compensation for losses Treaty Party members had suffered as a result of vengeance.⁷⁴

The Cherokee Nation flourished in their new home as one of the Five Civilized Tribes, along with the Creek, Choctaw, Chickasaw and Seminole. The name was given to these five Native groups by government officials because of each group's high degree of success in civilizing themselves, with the Cherokee being one of the more successful economically. All five groups experienced forced relocation from their traditional homes in the Southeast under the Indian Removal Act and would now become permanent neighbors in the Indian Territory. While united on paper, the Cherokee Nation was still politically divided behind the scenes, with each side wanting complete control. The shared animosity had merely been put on hold for the time being.

HISTORIOGRAPHY

The historiography for the Third Indian Home Guard's role in the U.S. Civil War continues to evolve. Historical accounts of the Cherokee Third Indian Regiment emerged early in the twentieth century with the likes of Annie Abel and Wiley Britton, both of whom wrote mostly from the point of view of outsiders and in a broad context that included the other members of the "Five Civilized Tribes": The Choctaw, Chickasaw, Creek, Seminole and Cherokee. Both writers, while focusing on White-Indian relations or the military perspective of the Cherokee involvement, developed the discourse used by future historians to discuss the Cherokee in the war. However, another discourse started in the early twentieth century concerning the Cherokee involvement in the Civil War came with regard to the "Lost Cause." Defeated Confederate soldiers created the "Lost Cause" ideology after the Civil War to justify and glorify their actions, by stating that the war was not fought over slavery but rather in defense of the Southern State rights against an oppressive federal government.⁷⁵ This discussion placed Stand Watie's Cherokee regiment within the context of fighting for the Confederacy's cause against an overwhelming Union Army. A more synthetic analysis about the indolent Third

⁷⁴ *Treaty with the Cherokee*, August 6, 1846, in *Indian Affairs: Laws and Treaties*, 561-4.

⁷⁵ Mathew A. Speiser, "Origins of the Lost Cause: The Continuity of Regional Celebration in the White South, 1850-1872," *Essays in History* (2009), <http://www.essaysinhistory.com/articles/2011/6> (accessed December 5, 2012).

Indian Home Guard role would merge the various discussions leading up to Clarissa Confer's *The Cherokee Nation in the Civil War* in 2007.

EARLY HISTORICAL WRITING

In 1922, Wiley Britton's book *The Union Indian Brigade in the Civil War* appeared. Britton, who served in the Sixth Kansas Cavalry during the war, fought alongside all three of the Indian Home Guard Regiments, including the two Union Cherokee Regiments. Britton kept a diary during his time in the military later released as *Memoirs of the Rebellion on the Border, 1863* in 1882.⁷⁶ He followed up that book with the two-volume *The Civil War on the Border*⁷⁷ in 1899 before writing the *Union Indian Brigade*.⁷⁸ Britton based his research not only on his own recollections of the war, but also on interviews he conducted with other Civil War officers and on official war records that he was able to obtain through his employment with the U.S. War Department.⁷⁹ Britton's book gives valuable insight into the way the Cherokee regiments were organized and run, noting that every battalion had a white officer who required an interpreter, as most of the Cherokee did not fully understand English.⁸⁰ Britton also describes the mindset of the white Union soldiers towards their Native colleagues, as Britton wrote that the other soldiers appeared scared of the Cherokee regiments, notably when they were covered in war paint and yelling war cries.⁸¹ Britton also noted the Cherokee's honorable conduct when in enemy homesteads and their good treatment of enemy prisoners.⁸² Although Britton mentions the internal conflicts within the Cherokee Nation, he does not discuss them in much detail, focusing his analysis on the Cherokee's military functions from a white soldier's perspective. Britton's book continues to be used in scholarly work on Native involvement in the Civil War.

In 1919, Annie Heloise Abel released the first of her three-volume series about the "Five Civilized Tribes" in the Civil War, entitled *The American Indian Slaveholder and Secessionist*,

⁷⁶ Wiley Britton, *Memoirs of the Rebellion on the Border, 1863* (Chicago: Cushing, Thomas & Co., Publishers, 1882).

⁷⁷ Wiley Britton, *The Civil War on the Border Volume I* (New York: The Knickerbocker Press, 1899); Wiley Britton, *The Civil War on the Border Volume II* (New York: The Knickerbocker Press, 1899).

⁷⁸ Wiley Britton, *The Union Indian Brigade in the Civil War* (Ottawa, Kansas: Kansas Heritage Press, 1922)

⁷⁹ *Ibid.*, 11-12.

⁸⁰ *Ibid.*, 195-96.

⁸¹ *Ibid.*, 188.

⁸² *Ibid.*, 10, 188.

which covers the period prior to the Civil War, such as the removal treaties where the Cherokee internal rifts began and the treaty-making process with the Confederacy.⁸³ In *The American Indian in the Civil War* (1922), Abel focused on the Natives' participation in the Civil War in Indian Territory, such as at the Battle of Pea Ridge in 1862⁸⁴. In her final book of the series, *The American Indian and the End of the Confederacy* (1925), Abel discussed the end of the war when the Indian Regiments were demobilized and the attempts by the five tribes to work out new treaties with the United States, devoting one chapter to the Cherokee negotiations.⁸⁵ Abel, an English-born professor at the University of Kansas was the first professional historian whose research examined the role of the Native soldiers in the U.S. Civil War.⁸⁶ Abel used a wide variety of primary sources: government reports, war records, letters from both the Cherokee and white officials, and the treaties for all of the five tribes; most of these sources are included in their entirety in the footnotes, which, allows future historians to use them in their own analysis. Abel described the Cherokee sovereignty claims in the post-war era, such as wishing to have their elected leader, John Ross, recognized by Federal officials.⁸⁷ Although Abel focuses on White-Native relations during the war, she was the first historian to give the Cherokee people their own agency in the war, showing their decision to participate on their own terms. Most important, she shows that the Cherokee and the other Native groups were active participants in the war, with their own agendas and rationale for taking part, and she gives adequate background about the Native groups to back up her assertions. Indicative of the time of her writing, she uses some racial and stereotypical language, such as "noble Cheyenne's", but that should not take away from her groundbreaking work on the Civil War in Indian Territory.⁸⁸

THE "LOST CAUSE"

While authors like Britton and Abel inspired an increased public analysis of Native participation in the Civil War, a larger discourse placed the Cherokee experience within the

⁸³ Annie Heloise Abel, *The American Indian as Slaveholder and Secessionist* (1919, Reprint, Lincoln: University of Nebraska Press, 1992).

⁸⁴ Annie Heloise Abel, *The American Indian in the Civil War, 1862-1865* (1922, Reprint, Lincoln: University of Nebraska Press, 1992).

⁸⁵ Annie Heloise Abel, *The American Indian and the End of the Confederacy, 1863-1866* (1925, Reprint, Lincoln: University of Nebraska Press, 1993)

⁸⁶ *Ibid.*, 5.

⁸⁷ *Ibid.*, 162, 346.

⁸⁸ *Ibid.*, 2.

Confederate “Lost Cause” ideology. The “Lost Cause,” introduced following the Civil War by men such as Jefferson Davis to reconstruct a positive Confederate history, placed the South in an against-all-odds battle with a Union force bent on destroying the Southern way of living.⁸⁹ Many writers used Cherokee leader Stand Watie and his Confederate Regiment to further this agenda. Watie was a perfect figure for this purpose, as the last Confederate General to surrender. He represented a group that had a long history of mistreatment at the hands of the federal government as well. However, this version of history neglects Watie’s political aspiration that saw him use the Civil War to take control of the Cherokee Nation, and, more importantly, ignores Cherokee agency by depicting them as fighting for a cause other than their own.

In 1939, an early example of the “Lost Cause” discourse in connection with the Cherokee Nation was written by Dale Edward Everett and Gaston Litton in their *Cherokee Cavaliers: Forty Years of Cherokee History*. Their research is based on the correspondence of Stand Watie, John Ridge, Elias Boundinot, all members or relatives of those who supported the removal treaty, and Cherokee alliance with the Confederacy. This choice of primary sources can only lead to a biased view, denying John Ross and his followers an equal opportunity to their story through their own correspondence. An example is John Ridge’s description of Ross as a selfish, cheating man; the authors go so far as to question Ross’s loyalty to neutrality, using Ross’s slaveholding status for justification rather than his own words.⁹⁰ Everett and Litton begin their discussion with an introduction to the Cherokee’s long history of victimization at the hands of the American government, building up a sad story, and describing those who supported the removal treaties as “men of great ability and of remarkable vision and strength of character.”⁹¹ Everett and Litton do provide an adequate context for the internal division within the Cherokee nation and provide all their sources in their entirety, opening the door for more discourse on the “Lost Cause” and the Cherokee.

In 1959, Frank Cunningham published *General Stand Watie’s Confederate Indians*. Cunningham, whose grandfather had died fighting for the Confederacy, uses *Cherokee Cavaliers* as one of the main sources in his research. Cunningham’s biases become apparent when he

⁸⁹ Speiser, *Origins of the Lost Cause*.

⁹⁰ Edward Everett Dale and Gaston Litton, *Cherokee Cavaliers: Forty Years of Cherokee History as Told in the Correspondence of the Ridge-Watie-Boundinot Family* (Norman: University of Oklahoma Press, 1939), 13, 104.

⁹¹ *Ibid.*, XV-XVII.

refers to the Union forces as “Yankees” and Pin Indians, and the Cherokee full-bloods who opposed the Confederacy as “devilish.”⁹² His personal biases become clearer when he compares the loyal Confederate Cherokee with those from John Drew’s Regiment, most of whom would later defect to the Union. When any negative comments arise about Confederate Cherokee soldiers, such as the scalping of Union soldiers on the battlefield, he is quick to shift blame to John Drew’s Regiment, although it is likely that both Confederate regiments took part in some scalping.⁹³ Most of Drew’s regiment eventually switched allegiance to the Union for various reasons, such as the Confederacy’s non-fulfillment of the treaty obligations, the way the Confederate officials treated them poorly, and how they were forced to fight outside their territory against other Native groups. Cunningham chose not to discuss the reason for Drew’s regiment’s mutiny, rather focusing on the negative comments made against them by Confederate army reports. An example is Cunningham’s implication of Drew’s regiment acting cowardly for leaving a battle because the Union Natives were wearing war paint, when actually they did not want to fight against their Native brothers.⁹⁴ Cunningham’s book depicts Stand Watie as a war hero for the Southern cause, describing him as a “gallant soldier and gentleman whose military activity was motivated by love of his Cherokee Nation.”⁹⁵ Despite these shortcomings, Cunningham gives good insight into how Confederate officials viewed Stand Watie’s troops, and his research gave the Cherokee a voice before the New History revolution of the 1970s. Cunningham’s book and the “Lost Cause” ideology continued to be popular, as historian Brad Agnew wrote a positive foreword to the 1998 edition of the book, praising Cunningham for spotlighting a forgotten Cherokee warrior and for “his objectivity in describing the conduct of war in Indian Territory”.⁹⁶

The “Lost Cause” entered popular culture via journalist Wilfred Knight’s 1988 book *Red Fox: Stand Watie and the Confederate Indian Nations during the Civil War in Indian Territory*. Knight wrote on Stand Watie because he felt he had been ignored by most historians and because of Watie’s unflattering devotion to the Confederacy. Playing up Watie’s forces as fighting

⁹² Frank Cunningham, *General Stand Watie’s Confederate Indians* (1959, Reprint, Norman: University of Oklahoma Press, 1998), 142

⁹³ *Ibid.*, 60.

⁹⁴ *Ibid.*, 50, 71.

⁹⁵ *Ibid.*, 142-43.

⁹⁶ *Ibid.*, IX.

against “terrible weapons employed by the Federal government” reveals the author’s “Lost Cause” ideology.⁹⁷ Knight builds up Ross as a manipulative politician who was always trying to gain the upper hand, without discussing how Stand Watie did the same.⁹⁸ Once again, Stand Watie is praised and Drew’s Regiment is constantly criticized, although Knight does admit that they were just as skilled as Watie’s regiment, only not as aggressive.⁹⁹ Although works like Knight’s may not be taken seriously within academic circles, the fact that it is out there and written for public consumption make it an important text, as future historians need to properly inform the public of the full story of the Cherokee’s involvement in the U.S. Civil War.

A NEW ANGLE

The following year in 1960, W. Craig Gaines released *The Confederate Cherokee: John Drew’s Regiment of Mounted Rifles*, perhaps in response to the “Lost Cause” historiography. Gaines focuses on Drew’s regiment, made up of full-blooded Cherokee, most of whom would later form the Second and Third Indian Home Guard regiments. It provides valuable insight into the regiment officers, and their motivations to fight and later join the Union cause.¹⁰⁰ Gaines gives a more balanced account, noting their successes and shortcomings in the Confederate Army, as well as their struggles in the war. He reveals their lack of preparation for the style of fighting expected of them.¹⁰¹ Gaines’ book launched a more complete telling of the Cherokee’s role in the Civil War, relying on newly ‘discovered’ sources. Gaines acknowledges the lack of primary sources from full-blooded Cherokee and says that a careful look at accounts from both war officials and Cherokee mixed-blood leadership is the only way to understand the Cherokee Nation.¹⁰² The balanced approach is needed to fully understand the Cherokee in the Civil War, as one cannot fully understand the Cherokee without information about their participation as both Confederate and Union soldiers.

Laurence M. Hauptman’s 1995 book, *Between Two Fires: American Indians in the Civil War*, reveals how a balanced discussion about Stand Watie can be valuable. Hauptman discusses

⁹⁷ Wilfred Knight, *Red Fox: Stand Watie and the Confederate Indian Nations during the Civil War Years in Indian Territory* (Glendale, California: The Arthur H. Clark Company, 1988), 13.

⁹⁸ *Ibid.*, 41-42, 67.

⁹⁹ *Ibid.*, 118.

¹⁰⁰ Gaines, *The Confederate Cherokees*, 17-19.

¹⁰¹ *Ibid.*, 46-47, 83-84, 97.

¹⁰² *Ibid.*, Preface.

the various Native groups that fought in the Civil War, giving analysis for the participation on both sides. While Hauptman acknowledges Watie's Southern sympathies, he also notes that his continued support for the Confederacy may have been politically motivated. Watie feared that he would be removed from power for convincing the Cherokee Nation to side with the Confederacy in the first place.¹⁰³ Hauptman examines how ruthless Stand Watie was, which made him a great military leader, but rejects the "Lost Cause" history that depicts him as an honorable Southern gentlemen fighter.¹⁰⁴ Hauptman further shifts the blame for battlefield scalping to both Drew's and Watie's regiment, and notes some of the disillusionment that Watie had towards Confederate officials when they failed to pay his troops.¹⁰⁵ But Hauptman also provides an analysis of what made the Watie regiment so important to the southern war effort, from their mobility and their loyalty to Stand Watie to their less ambitious goals of winning battles rather than trying just to occupy territory.¹⁰⁶ As Hauptman's research shows, the study of Stand Watie's regiment can give valuable insight into how the Civil War provided the arena for personal disputes to be fought out and how the Cherokee methods could be valuable for the war cause, employed by both sides.

Clarissa Confer's *The Cherokee Nation in the Civil War*, released in 2007, took all the previous discourse to create a more synthetic approach. Confer acknowledges that the Cherokee Nation was its own sovereign nation, in the sense that both Confederate and Federal officials had to negotiate with it as peers, but more importantly, she constantly notes Cherokee agency in the war.¹⁰⁷ Whether the choice was good or bad, the important point was that the Cherokee made their own decisions in the way Abel's research had first suggested. Confer gives excellent context for the motivation of both John Ross' and Stand Watie's Cherokee clans to participate in the war, spanning through religion, slavery, politics and past feuds. She gives adequate consideration to both sides' decision to support the Confederacy and, later, the Union. Confer picks up on Gaines' point that the Cherokee troops were ill-equipped and poorly trained for the new style of fighting, and how this led to a generally negative view held by officials on both

¹⁰³ Laurence M. Hauptman, *Between Two Fires: American Indian in the Civil War* (New York: Free Press Paperbacks, 1995), 52.

¹⁰⁴ Ibid., 50.

¹⁰⁵ Ibid., 50-51.

¹⁰⁶ Ibid., 55.

¹⁰⁷ Confer, *The Cherokee Nation in the Civil War*, 4-5.

sides.¹⁰⁸ The discussions of the negative representations of the Cherokee in the Civil War, some of which may be true, need to be understood in context. An example of this is the high Cherokee desertion rates for both sides; while this is an undisputable statistic, the majority who deserted returned. Desertion was based more on cultural difference than military attitudes, as the Cherokee considered their disappearance as long furloughs to check on their families.¹⁰⁹ Confer ends her discussion with an analysis of the new treaty-making process for both the Union and Confederate fighters, and how their participation affected that process.

In 2015, Gregory Smithers published his book *The Cherokee Diaspora: An Indigenous History of Migration, Resettlement, and Identity*.¹¹⁰ The Cherokee's homeland changed throughout history, caused by the dispersal of the Cherokee Nation into North Carolina, Oklahoma, Arkansas, Texas and Georgia. Smithers discusses how each dispersal created a change in the Cherokee identity. Throughout *Cherokee Diaspora*, Smithers argues that the Cherokee struggled for sovereignty. For example, they adopted Christianity as a means to preserve their land rights and created their own Constitution declaring the Cherokee Nation as their own sovereign entity.¹¹¹ Cherokee dispersal altered the Cherokee identity most notably during the "Trail of Tears." Going against the more critical portrayal of the Treaty Party, Smithers argues that the Treaty Party members were aiming for the preservation of the Cherokee Nation in the signing of the Treaty of New Echota.¹¹² However, Smithers does not address the political aspirations of the Treaty Party members, which is a major contribution of this thesis. Likewise, in his discussion of the Civil War, there is no mention of the 1866 treaty negotiations, nor the role of the former members of the Treaty Party in the losses of land and rights. Smithers' book addresses the internal divisions within the Cherokee Nation, their motivations in entering the war, and the experiences of the refugees created during wartime. My thesis provides additional details and a more thorough discussion of Cherokee internal divisions, their motivations, and the experiences of the refugees during the Civil War.

Concerning the historiography, my thesis is a cross between W. Craig Gaines' *The Confederate Cherokee* and Clarissa Confer's *The Cherokee Nation in the Civil War*. After

¹⁰⁸ Ibid., 68-70, 72-73.

¹⁰⁹ Ibid., 99-101.

¹¹⁰ Smithers, *The Cherokee Diaspora*.

¹¹¹ Ibid., 17, 43, 56.

¹¹² Ibid., 107.

reading Gaines' book, I became inspired to write this thesis in response to the large amount of academic material written on Stand Watie and the Confederate Cherokee, as I believe there is a need to give a voice to the remainder of the Cherokee who fought during the Civil War. My thesis will add to Gaines' account by revealing how Drew's regiment adapted to the Civil War following their time in the Confederate army under the Union banner. Much like Confer's book, my thesis acknowledges the Cherokee's agency in their decision to enter the Civil War and their agenda for doing so. In addition, my research will further address the misunderstanding of the Cherokee soldiers' actions during the Civil War, such as the Cherokee placing more importance on fighting than performing military drills. My thesis will conclude with the fall out of the war, specifically the negotiations of the 1866 treaty and effects of those negotiations on the Cherokee Nation into modern times.

CONCLUSION

This thesis links the secondary sources along with numerous primary sources that address the Cherokee Third Indian Home Guard and the Union Cherokee Nation during the Civil War. The primary sources will include correspondence of Cherokee leaders John Ross and Stand Watie during the Civil War period in the form of the published *John Ross Papers* and *Cherokee Cavaliers*. These two sources provided the primary voice for the Cherokee in the history of Union Cherokees. However, while these sources provide some voice to the Cherokee people, it only covers the small number of Cherokees who could read and write. The majority of the Cherokee citizens were illiterate and relied heavily on oral history. I briefly sought oral history accounts from Cherokee soldiers but found none directly connected to soldiers' experiences. Primary sources include military reports from the National Archives in Washington, D.C. Record Group 94, such as the Third Indian Home Guard's Regimental *Descriptive Books* and *Order Books*. The *Descriptive Books* are essentially the enrollment papers of the Third Indian Home Guard's Companies A to H.¹¹³ Included in the *Descriptive Books* are the names of all the Cherokee soldiers, their occupations, physical statistics, the commissioned officers of each company, and when each soldier died while under service. The *Order Books* are the communications of Union Officers in the form of orders provided for the Third Indian Home

¹¹³ Regimental Descriptive Book, 3D Indian Home Guard, Records of the Adjutant General's Office, Book Records of Volunteer Union Organizations, U.S. Army Continental Commands Successions of Commands; RG 94, Vol. 1 of 5, (Washington, D.C.: National Archives).

Guard from September 1862 to May 1865.¹¹⁴ The orders can be for the Third Indian brigade as a whole or for an individual soldier's assignment to various duties, or declaring missing soldiers as deserters. Also used are *The Annual Reports of the Commissioner of Indian Affairs* and *The War of the Rebellion: A Compilation of the Official Records of the Union and the Confederate Armies* available through the Government Printing Office in Washington, D.C. *The Annual Reports of the Commissioner of Indian Affairs* are the reports from the Superintendent of the Indian Affairs of the Southern Superintendency to officials in Washington.¹¹⁵ *The Annual Reports* includes accounts of the military operations, and provides an in-depth description of the treaty negotiations at Fort Smith following the Civil War. *The War of the Rebellion* is a collection of correspondences, orders, and reports from Civil War officials of both armies.¹¹⁶ The most commonly used sources for my thesis came from Colonel William Phillips and other officers in charge of the Cherokee men. The combination of these primary sources, along with others pertaining to the Cherokee soldiers, will help shape the narrative of how the Cherokee experiences and goals developed during their time in the Union Army by comparing how both sides regarded the Cherokee Union soldiers.

Scholarship about Cherokee participation in the Civil war has a long history of its own, beginning with the perspective of someone who fought alongside the Cherokee regiments through Wiley Britton, still referenced today by modern historians for his insight into the Cherokee participation. Annie Abel gave the Cherokee people agency and recognition for their role in the Civil War, which laid the groundwork for future historians to reconsider the topic. The "Lost Cause" ideology brought the Cherokee Civil War participation into public discourse and gave valuable insight into Stand Watie's role. Perhaps in response to this "Lost Cause" discourse, other historians filled in the blanks to present alternate and more diverse interpretations of the Cherokee role in the Civil War. Clarissa Confer took all that was done previously to create a synthetic interpretation, giving adequate attention to both Confederate and Union regiments. Although the historiography has come a long way, there still remains little detailed analysis of the Third Indian Home Guard. While Confer's book presents many great

¹¹⁴ Regimental Order Book, 3D Indian Home Guard, Books Records of Volunteer Union Organizations, Records of the Adjutant General's Office, U.S. Army Continental Commands Successions of Commands, RG 94, Vol. 3 of 5, (Washington, D.C.: National Archives).

¹¹⁵ United States, *Annual Report of the Commissioner of Indian Affairs, for the year 1865*, (Washington, D.C.: Government Printing Office).

¹¹⁶ United States, *The War of the Rebellion: A Compilation of the Official Records of the Union and the Confederate Armies*, (Washington, D.C.: Government Printing Office).

anecdotes and historical information, her balanced approach did not include a full discussion of the Third Indian Home Brigade's role in the Civil War. A more in-depth discussion needs to focus on the Union Cherokee's fight for sovereignty. The Cherokee played a role in securing the Indian Territory, but not out of loyalty to either the Confederate or the Union causes. The goal of the Cherokee people was to gain and retain the sovereign right to control the land within their own borders. The internal conflicts within the tribe played a part in dictating which side members of the Cherokee Nation fought for during the Civil War.

Chapter 2

Betrayal and Allegiances

TWO SOCIETIES

Once resettled in Indian Territory, the divisions caused by removal persisted, despite the 1846 attempt to unite factions. As a national slavery crisis of the 1850s split the United States, Cherokee divisions re-emerged. Two secret societies emerged to advance the political goals of their respective members: The Keetoowah Nighthawk Society and The Knights of the Golden Circle. On 5 May 1855, Ross sent a letter to Reverend Evan Jones regarding the rise of “a secret society organized in Delaware and Saline Districts, auxiliary to a ‘Mother Lodge’ in some of the States or Territories of the United States.”¹ That society was the Cherokee branch of the Knights of the Golden Circle, an offshoot of the larger group founded by George W. L. Bickley in 1854. The Knights stood for expansion of “the superior Anglo-American civilizations” and Slave Empire within the area known as the Golden Circle, which included Northern South America, the Southern United States and the West Indies.² Stand Watie and many former members of the Treaty Party made up the Cherokee chapter.

Watie had been born Isaac S. Watie in Oothcaloga, Georgia on 12 December 1806, son of a Cherokee father and a half-Cherokee mother.³ He later took on his Cherokee name, Degadoga, which translates as “He Stands”. Although successful in business, Watie was unable to attain the same standing in Cherokee Society as Ross. A Cherokee Supreme Court clerk, attorney, and shrewd businessman who owned several farms and mills, Watie’s hard-nosed ways made him the ideal leader of the Cherokee chapter of the Knights of the Golden Circle.⁴ The Cherokee Knights’ official purpose and membership requirements in their constitution, created 28 August 1860, declared that they wished to unite to “protect [them]selves and property against the works of Abolitionist[s]... [and] no person shall become a member of the Knights of the Golden Circle

¹ Minges, *Slavery in the Cherokee Nation*, 71.

² *Ibid.*, 73.

³ Hauptman, *Between Two Fires*, 43.

⁴ *Ibid.*, 43; Gaines, *The Confederate Cherokees*, 5.

in the Cherokee nation who is not a pro-slavery man.”⁵ This stance put them at odds with the other secret society in the Cherokee Nation.

The Keetoowah Nighthawk Society was comprised of conservative, full-blooded Cherokee men to counteract the Golden Knights. The name derived from the term Anti-Kituhwagi meaning “People of the Kitwuwah.”⁶ They wore their membership pins publicly, later known derisively as “Pin Indians.”⁷ Many Keetoowah members were later part of the Third Indian Home Guard. Their goal was to “conserve the purity of Cherokee Indian customs and traditions.”⁸ This group wished to embrace the old ways; the times before outsiders had spoiled their culture. Meetings of the Keetoowah society were steeped in traditional ceremonies and rituals. Meetings at Gatiyo, or “stomp grounds,” took place around a fire started the traditional way, without matches or other modern devices.⁹ The lighting of the fire was followed by smoking a peace pipe, traditional stomp dances, and a special black drink.¹⁰ All of these rituals embraced the traditional ways and united full-blooded members of the Cherokee Nation. Although they longed for the old customs, the members of the Keetoowah were primarily nationalist, all their efforts for the benefit of the Cherokee Nation. The Keetoowah constitution laid out three main points. The first two required members to abide by treaties with the Federal Government, and the third was to abide by the laws and constitution of the Cherokee Nation.¹¹ This reveals the mindset of the Keetoowah, who wished for the old ways but still respected the institutions created by outside forces, such as treaties and the Cherokee Constitution. Membership in the Keetoowah society was limited to “full-blooded Cherokees uneducated” with “no mixed blood friends allowed to become a member.”¹² This left Ross out of the society, even though members saw him as their political leader. However, he was constantly associated with them by members of the Knights of the Golden Circle.

⁵ Minges, *Slavery in the Cherokee Nation*, 73.

⁶ *Ibid.*, 74

⁷ Confer, *The Cherokee Nation in the Civil War*, 33-34; Minges, *Slavery in the Cherokee Nation*, 96; Albert Pike to the Commissioner of Indian Affairs, February 17, 1866, in *The American Indian as Slaveholder and Secessionist*, 135.

⁸ Minges, *Slavery in the Cherokee Nation*, 77.

⁹ *Ibid.*, 80.

¹⁰ *Ibid.*, 80-1.

¹¹ *Ibid.*, 83.

¹² *Ibid.*, 78.

Although never explicitly stated, the Keetoowah believed that slavery went against traditional teachings of equality and was merely a method for one group to assert racial superiority over another.¹³ This ideology put them at odds with the Knights of the Golden Circle and led to political clashes when each side tried to dictate how the Cherokee Nation would be run. A similar struggle happened across the U.S. on a much larger scale.

THE CIVIL WAR

In February 1861, seven southern states: South Carolina, Mississippi, Florida, Georgia, Texas, Alabama, and Louisiana seceded from the United States and formed the Confederate States of America. When the United States and the Confederacy went to war two months later, Arkansas, Tennessee, North Carolina, and Virginia also joined the Confederacy. This development had huge ramifications for the Cherokee people and the rest of the Five Civilized Tribes, whose respective territories bordered both the United States and Confederate areas. The Confederacy was well aware of the strategic importance of Indian Territory and was quick to make overtures towards the Native groups to secure their alliance. To procure the allegiance of the Five Civilized Tribes and other Native groups in the region, the Confederate Government named Albert Pike as Commissioner to the Indian Nations in March 1861.¹⁴ Pike had been a Captain in the United States army, had learned to speak numerous Native languages, and had built a trust with various groups by helping them with legal matters in the past.

With the outbreak of war, the United States withdrew troops from Indian Territory due to its remoteness, leaving the Cherokee and the other tribes defenseless against Confederate armies. The United States Government withheld annuity payments, a continued fixed payment agreed upon through treaty, out of fear that it would fall into Confederate hands.¹⁵ Pike was aware of this situation and used U.S. abandonment to sway the Five Civilized Tribes toward a Confederate alliance. By early March, the Choctaw and Chickasaw Nations signed treaties with the Confederacy.¹⁶ Abandoned by the federal government and with their neighbors already joining the Confederacy, the Cherokee were under immense pressure to enter the Civil War.

¹³ Ibid., 84.

¹⁴ Gaines, *Confederate Cherokees*, 7.

¹⁵ Ibid., 7, 9.

¹⁶ Minges, *Slavery in the Cherokee Nation*, 99.

THE POSSIBILITY OF NEUTRALITY

With the outbreak of war, Principal Chief John Ross was quick to declare neutrality. The Cherokee people, made up of primarily full-bloods, had not forgotten that within the Confederacy were the same people who had driven them from their homes in Georgia. They had little reason to trust the Confederate government and resisted joining them, even if Ross was willing to do so. His only hope of holding off a Confederate military invasion was to declare neutrality. As Ross described it, “Our soil has not been invaded, our peace has not been molested, nor our rights interfered with by either Government”; thus, there was no reason to get involved.¹⁷ When the Creek, Seminole, and Cherokee met in a council to discuss the issue, Ross stated, “Our duty is very plain. We have only to adhere firmly to our respective [t]reaties. By them we have place[d] ourselves under the protection of the United States, and of no other sovereign Power.”¹⁸ It is clear that Ross was a shrewd politician. By declaring neutrality, he adhered to the will of the majority who were reluctant to side with Confederacy, which would maintain his support within the Cherokee Nation. Neutrality also allowed the Cherokee to sit out the war and see who prevailed without burning bridges on either side. However, neutrality would not last long within the Cherokee Nation.

Stand Watie and other members of the Knights of the Golden Circle saw the Civil War as an opportunity to gain political power. Even before Ross declared neutrality, Watie had meetings with Albert Pike and Confederate General Benjamin McCulloch to “ascertain whether the Confederate States would protect them against Mr. Ross and the Pin Indians, if they should organize and take up arms for the South.”¹⁹ With encouragement from Confederate officials, Watie assembled a battalion of pro-Confederate Cherokee and commissioned a Confederate Colonel, only one day after Ross declared Cherokee neutrality at a meeting of the Five Tribes in Antelope Hills.²⁰ Watie and his followers attempted to raise the Confederate flag at the Cherokee capital of Tahlequah, but were stopped by members of the Keetoowah; a fight broke

¹⁷ Address to the Cherokee, August 21, 1861, in *The Papers of Chief John Ross: Volume II 1840-1866*, edited by Gary E. Moulton, (Norman: University of Oklahoma Press, 1985), 480.

¹⁸ John Ross to William P. Ross, Thomas Pegg, John Spears, and Lewis Downing, February 12, 1861, in *The Papers of Chief John Ross*, 462.

¹⁹ Pike to Commissioner of Indian Affairs in *The American Indian as Slaveholder and Secessionist*, 135.

²⁰ Gaines, *The Confederate Cherokee*, 8.

out that only stopped with the intervention of Ross and John Drew.²¹ Colonel John Drew was the nephew-in-law of John Ross. He had fought for the United States in the War of 1812 and was a successful businessman from Webber Falls on the Arkansas River.²² Watie's actions showed his intent to use the new instability caused by the Confederacy to his advantage, in order to take control of the Cherokee people.

Both Pike and McCulloch were aware of the division within the Cherokee Nation and feared "that the feelings of animosity may tempt one party to join the North; should their forces march into the Indian Territory."²³ Pike continued to press hard for the Cherokee to join the Confederacy, despite Ross' consistent refusal even to meet with Confederate officials. Ross was always cordial in his responses but was adamant that the Cherokee were not "at liberty to 'enter into any negotiation with any foreign power, State or individuals of a State,' for any purpose, whatever, and therefore [we] most respectfully decline to enter into any Treaty with the authorities of the Confederate States of America."²⁴ Eventually, however, the Cherokee resolve to remain neutral started to crack. Confederate victories at Bull Run in July 21, 1861, and Wilson's Creek in August 10, 1861, forced the Cherokee to reconsider their stance.²⁵ Abandoned by the United States, their neighbors had already made an alliance with the Confederacy, and there would be no protection from Stand Watie and his forces, who had a private alliance with the Confederacy. Joining the Confederacy for protection began to seem like a good option for the Cherokee people.

Despite fear and growing pressure, Ross addressed a meeting of nearly four thousand Cherokee in Tahlequah on 21 August 1861 to reaffirm his desire for neutrality.²⁶ The intention of the meeting was to calm the Cherokee population, many of whom were in constant fear of invasion and now spoke in favor of allying with the Confederacy.²⁷ Watie made his intentions for the meeting known when he and nearly one hundred of his followers showed up armed.²⁸ Sensing trouble if he remained neutral, Ross changed his stance and elected in favor of an

²¹ John Pike to Commissioner of Indian Affairs, 135; Minges, *Slavery in the Cherokee Nation*, 106.

²² *Ibid.*, 15.

²³ *Ibid.*, 587.

²⁴ John Ross to Albert Pike, July 1, 1861, in *The Papers of Chief John Ross*, 476.

²⁵ Gaines, *The Confederate Cherokee*, 9.

²⁶ Address to the Cherokee, August 31, 1861 in *The Papers of Chief John Ross*, 480.

²⁷ Gaines, *The Confederate Cherokee*, 11.

²⁸ Minges, *Slavery in the Cherokee Nation*, 108.

alliance with the Confederacy for “terms honorable and advantageous to the Cherokee Nation.”²⁹ Had Ross not changed his stance, Watie no doubt would have seized the opportunity to take power away from him and lead the Cherokee to ally with the Confederacy. William Penn Adair, a follower of Watie and a member of the Knights, wrote to Watie that Ross “in reality tied up our hands & shut our mouths [and] put the destiny [and] everything connected with the Nation [and] our lives [and] in the hands of the Executive” and that the “Pins already have more power in the land than we can bear,” revealing the Knight’ ambitions and their frustration in failing to strip power away from Ross once again.³⁰ With Ross’ position firmly established, overtures now went out to Pike to bring the Cherokee Nation under the Confederate umbrella.

CONFEDERATE CHEROKEES

Now that the Cherokee had made the decision to side with the Confederacy, Ross was determined to get the best terms possible. The Cherokee Executive Committee, made up of Ross, James Vann, John Drew and Ross’s nephew William, informed General McCulloch of their intention to ally with the Confederacy and about the formation of a regiment that would serve under John Drew.³¹ This regiment would counter-balance Watie’s regiment.³² Drew’s military experiences and actions that prevented bloodshed at the flag-raising event made him the ideal choice to lead the new regiment. Drew’s regiment consisted of Keetoowah members loyal to Ross. When word of Drew’s regiment reached Watie’s brother-in-law, James Bell, Bell wrote that if something was not done soon, “all of our work will be in vain. Our prospects destroyed[,] our rights disregarded and we will be slaves to Ross Tranny.”³³ But Watie was powerless to stop these things from occurring. General McCulloch wrote to Drew that “as soon as a treaty can be entered into between your Chiefs and General Pike your regiment will be received and mustered into services.”³⁴ However, in separate letters, McCulloch instructed both Watie and Drew to

²⁹ Address to the Cherokee, 481.

³⁰ William P. Adair and James M. Bell to Stand Watie, August 29, 1861, in *Cherokee Cavaliers*, 108.

³¹ John Ross to Benjamin McCulloch, August 24, 1861, in *The Paper of Chief John Ross*, 483.

³² Gaines, *The Confederate Cherokee*, 13.

³³ William P. Adair and James M. Bell to Stand Watie in *Cherokee Cavaliers*, 109.

³⁴ Benjamin McCulloch to John Drew, September 1, 1861, in *War of the Rebellion: A Compilation of the Official Records of the Union and the Confederate Armies, Ser 1, Vol. 3*, United States War Department (Washington, D.C.: Government Printing Office, 1881), 691.

raise regiments for the protection of their land.³⁵ This act segregated the two factions into separate units, with McCulloch writing, “Colonel Drew’s Regiment will be mostly composed of full-bloods, whilst those with Col. Stand Watie will be half-breeds, who are educated men and good soldiers anywhere, in or out of the Nation.”³⁶ Perhaps McCulloch’s keeping the two sides apart was in hopes of keeping them united to the cause, but also shows his preference toward the mixed-blooded Cherokee. However, this could also have been due to the questionable loyalty of Ross’ Cherokee, who McCulloch described as “[coarse] and influenced to...join the South.”³⁷ Was there any realistic way to unite the two groups during this time? It seems unlikely, given the political allegiances and aspirations of each group. Whatever his rationale, McCulloch’s actions only further split the two factions apart.

On 7 October 1861, without Watie or any of his followers involved, the Cherokee signed a treaty with the Confederate Government, the last of the Five Civilized Tribes to do so. The treaty fulfilled much of what the Cherokee had sought from the United States: peace, protection, and the recognition of their sovereign rights as a nation. Much like the treaty with the United States, the Confederate government promised to protect and never abandon the Cherokee people.³⁸ It also called for the Confederacy to pick up the annuity payments previously paid by the U.S. Government.³⁹ The Treaty fully defined the boundaries to Cherokee territory, as well as the right to continue to hold the land communally.⁴⁰ It also confirmed that the Cherokee were a sovereign nation. Examples of this confirmation included: exception from State Laws, the right of self-government within their borders, and a promised seat in the Confederate Congress.⁴¹ In addition, the treaty allowed the creation of a Cherokee judicial district with the same powers as any court within the Confederate Nation, with all Cherokee citizens declared competent to be a witness in any court of law.⁴² It is interesting that many of these terms protected the Cherokee

³⁵ Ibid., 691; Benjamin McCulloch to L.P Walker, September 2, 1861 in *War of the Rebellion, Ser 1, Vol. 3*, 692.

³⁶ Ibid., 692.

³⁷ Ibid., 692.

³⁸ Treaty with Cherokee, October 7, 1861, in *The Statutes at Large of the Provisional Government of the Confederate States of America*, edited by James M. Matthews, (Richmond: R.M. Smith, Printer to Congress, 1864) 395.

³⁹ Ibid., 404.

⁴⁰ Ibid., 395,397.

⁴¹ Ibid., 397, 400-3.

⁴² Ibid., 397, 400-3.

from the same incursions that Georgia had imposed upon the Cherokee people thirty years earlier. In exchange, the Cherokee gave up tracts of lands for military forts, declared the legality of slavery, and promised to return all fugitive slaves.⁴³

The most important part of the Treaty was Article Forty, which stated that “the Cherokee Nation hereby agrees that it will raise and furnish a regiment of ten companies of mounted men...to serve in the armies of the Confederate States” who would “receive the same pay and allowances as other mounted troops in the service, and not be moved beyond the limits of the Indian country west of Arkansas without their consent.”⁴⁴ Furthermore, “the said Cherokee Nation shall never be required or called upon to pay, in land or otherwise, any part of the expenses of the present war.”⁴⁵ The treaty presented many favorable terms that acknowledged their sovereign rights and gave the Cherokee the sense of security they desired.

On 28 October 1861, the Cherokee Nation declared their rationale for joining the Confederacy in what is known as the *Cherokee Declaration of the Causes*. It explained that they had wished to adhere to their treaties with the United States, but that the U.S. had violated those treaties by abandoning the nation.⁴⁶ When Ross and Watie shook hands to seal their new-found unity under the Confederate banner, Watie told Ross that there would be no peace as long as the Pins remained a political organization. Ross responded that he did not know what Watie was talking about.⁴⁷

FIGHTING WITHOUT HEART

With the Treaty signed, the Cherokee officially joined the Confederate Army. Both regiments lay claim to the title of the First Cherokee Mounted Rifles, as Watie’s group was the first to see action but Drew’s men were the first officially mustered into service.⁴⁸ Soon everyone simply referred to them as Drew’s Regiment or Watie’s Regiment. Ross’ sons, Allen and George Washington Ross, joined Drew’s H Company. Each company recruited in separate

⁴³ Ibid., 398-9, 402-3.

⁴⁴ Ibid., 403.

⁴⁵ Ibid., 403.

⁴⁶ “Declaration by the People of the Cherokee Nation of the Causes Which Have Impelled Them to Unite Their Fortunes with Those of the Confederate States of America, 28 October, 1861,” (<http://www.cherokee.org/AboutTheNation/History/Events/CherokeeDeclarationofCauses%28October28,1861%29.aspx>) Accessed on April 29, 2015.

⁴⁷ Minges, *Slavery in the Cherokee Nation*, 110; Gaines, *The Confederate Cherokee*, 27.

⁴⁸ Gaines, *The Confederate Cherokee*, 15.

districts within the Cherokee Nation, with Companies B, H and I from Tahlequah and the other companies each coming from the other seven districts to make the ten companies required in the treaty.⁴⁹ Each company chose its own officers, many ending up being the well-educated mixed-blood members of the company such as James Vann, Thomas Pegg, Smith Christy, and Ross' nephew, William Ross.⁵⁰ Most officers were either related to or politically associated with John Ross. For the full-blooded or Keetoowah soldiers, it made sense to select the same political leaders that represented them in the Cherokee Nation. In addition, many of the full-blooded Cherokee were uneducated and unable to read or write in English and needed officers to act as interpreters between them and Confederate officials. On 5 November 1861, Drew's Regiment mustered in for twelve months of service, with the records showing 1214 men between the ages of 15 and 76 registered.⁵¹ Their first official act was to arrest an illegal horse supplier named Warfield.⁵² With the Drew Regiment in place ready to do their part, there was trouble outside of the Cherokee Nation that would have major impact on the Cherokee participation in the Confederate Army.

Much like the Cherokee, the Creeks were a divided nation, with a minority of mixed-bloods who favoured siding with the Confederacy and a group of full-blooded Creeks who wished to stay neutral. The Creeks signed a treaty with the Confederacy on 10 July 1861, but a large group refused to acknowledge or abide by the new alliance. Chief Opothleyahola, who had fought against removal under the Indian Removal Act during the 1830s, led the pro-neutrality Creeks.⁵³ Opothleyahola considered the signing of the Confederate Treaty by Daniel N. and Chilly McIntosh as illegal, as they were bound by treaty to the United States. The McIntoshes were the sons of William McIntosh. McIntosh killed for his part in signing the Removal Treaty, much like the situation with the Cherokee.⁵⁴ When Ross touted neutrality for his people and suggested it to other tribes, Opothleyahola whole-heartedly supported him. However, after allying with the Confederacy, Ross wrote to Opothleyahola encouraging him to do the same so that "the United Brotherhood of the Indian Nations might be preserved."⁵⁵ Ross worried about

⁴⁹ Ibid., 20.

⁵⁰ Ibid., 17-9.

⁵¹ Ibid., 32.

⁵² Ibid., 34.

⁵³ Gaines, *The Confederate Cherokee*, 23.

⁵⁴ Ibid., 23.

⁵⁵ John Ross to Chiefs of Osage Nation, September 19, 1861, in *The Papers of Chief John Ross*, 486.

the prospect of conflict with his fellow Native brothers, should they choose to remain unallied with the Confederacy. When Opothleyahola received this letter, he was surprised, and sent a letter back to Ross asking if he had actually sent the original letter. Ross confirmed it.⁵⁶ After this betrayal, Opothleyahola refused to meet with Ross or anyone else allied with the Confederates. Many followers joined Opothleyahola, including Creeks, Natives from other tribes, women, children, and African slaves; all hoping to gain protection from the Union.

Daniel McIntosh, who had control of his own Creek regiment, appeared determined to stop Opothleyahola and requested help from Drew's Regiment to deal with him. Drew was unwilling to get involved and ignored the request.⁵⁷ Many in Drew's regiment were related to Opothleyahola's supporters through inter-marriage. Ross hoped that things could be dealt with in a peaceful manner and continually wrote to Opothleyahola, but his letters received no response. General McCulloch ordered Drew to meet with McIntosh and Colonel Douglas Cooper, commander of the First Choctaw and Chickasaw Regiment.⁵⁸ Opothleyahola attempted to take his followers to Kansas to receive aid from Union forces. While Drew's men were at Camp Coody near the Kansas border on 19 November 1861, Cooper's force caught up with Opothleyahola near Round Mountain, West of the Arkansas River, where a clash ensued between the two forces and Cooper retreated.⁵⁹

Following the Battle of Round Mountain, Opothleyahola moved towards the Coweescowee District and Camp McDaniel, named after Captain James McDaniel, whose home served as base camp. McDaniel commanded fifty men of Drew's reserve company, who had been operating separately from the rest of Drew's regiment.⁶⁰ With Opothleyahola's position learned, McDaniel received orders to talk Opothleyahola into surrendering, but instead McDaniel and his entire Cherokee regiment deserted and joined the Opothleyahola Creek ranks.⁶¹ On 4 December 1861, Drew had four hundred and eighty men either sick or on

⁵⁶ John Ross to Opothleyahola and Other Chiefs and Headmen of the Creek Nation, September 19, 1861, in *The Papers of Chief John Ross*, 487.

⁵⁷ Gaines, *The Confederate Cherokee*, 24-5.

⁵⁸ *Ibid.*, 28.

⁵⁹ *Ibid.*, 39.

⁶⁰ *Ibid.*, 37.

⁶¹ *Ibid.*, 40-2.

furlough, who were ordered by Cooper to join his forces.⁶² On 6 December, Drew's men set up camp near Bird Creek to await Cooper. The following night, McDaniel met with Keetoowah members on guard duty to discuss the situation. The consensus was that the Cherokee were serving out of compulsion rather than loyalty to the Confederacy, and plans for desertion emerged.⁶³ The next day, as Cooper neared Opothleyahola, Copper sent a message to Drew asking for peace; Drew sent a delegation of Major Thomas Pegg, Reverend Lewis Downing, Captain George W. Scrapper, and Captain Porum Davis to ascertain if peace were possible.⁶⁴ That evening, a large portion of Drew's men, unwilling to fight their Creek brothers, took their arms and deserted to Opothleyahola, using Keetoowah secret codes and gestures to identify each other during the night.⁶⁵ The delegation never had a chance to meet with Opothleyahola; the promise of peace was merely a ruse to facilitate desertion; when the morning sun rose, only sixty of the original four hundred and eighty men remained.⁶⁶ When Cooper arrived, he met a small group of what remained of Drew's Regiment and learned of the desertion.⁶⁷ The deserters paid the price for their actions, with their homes and property pillaged and burnt down.⁶⁸ Within a month of reluctantly joining the Confederacy and without one shot fired, a large portion of Drew's Regiment had been lost to the enemy. It was a major strategic error by Confederate commanders to place reluctant Cherokee soldiers against their recent former allies.

After the mass desertion, Drew's remaining regiment took part in a Confederate victory at the Battle of Caving Banks on 9 December 1861. Many of John Ross' family members participated in the battle.⁶⁹ Despite the victory, confidence in what remained of John Drew's Regiment was at an all-time low, and as such more Cherokee joined Opothleyahola.⁷⁰ One Texas soldier wrote, "[Y]ou do not know at what moment they will turn over to the opposite

⁶² Report of Col. Douglas I.L. Cooper, January 4, 1862, in *War of the Rebellion: A Compilation of the Official Records of the Union and the Confederate Armies, Ser. 1, Vol. 8*, United States War Department (Washington, D.C.: Government Printing Office, 1883) 7.

⁶³ Gaines, *The Confederate Cherokee*, 45.

⁶⁴ Report of Col. John Drew Engagement at Chusto-talasah, December 18, 1862, in *War of the Rebellion, Ser. 1, Vol. 8*, 17.

⁶⁵ Gaines, *The Confederate Cherokee*, 46.

⁶⁶ Report of John Drew, 17.

⁶⁷ Report of Cooper, 7-8.

⁶⁸ Gaines, *The Confederate Cherokee*, 99.

⁶⁹ Gaines, 50-3.

⁷⁰ Report of Cooper, 11.

side.”⁷¹ Ross undertook damage control and assured Confederate officials that the Cherokee would adhere to the treaty and continue to fight. On 19 December, Ross met with Drew’s demoralized Regiment to remind them why they had allied with the Confederacy and why they needed to honor their treaty.⁷² Drew’s men reorganized, with many deciding to return home rather than fight. Cooper and other Confederate officials had no confidence in Drew’s men, despite Pike telling them that they would fight against “the Yankees; but did not wish to fight their own brethren, the Creeks.”⁷³ Cooper noted the need for additional white forces in the territory for “the true men among the Cherokee must be supported,” showing again his preference towards Watie’s men over Drew’s.⁷⁴ On 26 December 1861, at the Battle of Chustenahlah, the Confederacy army caught up with Opothleyhola’s and followers. Not long after the battle, Confederate forces stopped Opothleyhola’s group. Watie’s regiment took part and relished the opportunity to kill Cherokee traitors within Opothleyhola’s ranks.⁷⁵

The remainder of Drew’s five hundred Cherokee continued to fight for the Confederacy, most notably at the Battle of Pea Ridge, where General Albert Pike ordered the Cherokee to join Major-General Earl Van Dorn’s men in Fayette, Arkansas.⁷⁶ Confederate officials ordered Watie’s regiment to join Van Dorn as well.⁷⁷ This deployment was a violation of the treaty, as it removed them from their homeland without their consent, but at least they now fought an outside enemy rather than friends and relatives.⁷⁸ Once they joined Van Dorn, their combined forces fought against Union General Samuel Curtis’s army on 6 March 1862. During the two days of fighting, Drew’s soldiers struggled, as they had not been prepared for formal open-field fighting.⁷⁹ When the Cherokee soldiers came under heavy artillery fire, they quickly retreated.⁸⁰ Despite these shortcomings and lack of proper training or arms, the Cherokee fought and even managed to capture a few enemy artillery fortifications during the battle.⁸¹ Despite fighting well,

⁷¹ Gaines, 55.

⁷² Ibid., 57.

⁷³ Pike to Commissioner of Indian Affairs, 138.

⁷⁴ Report of Douglas Cooper, January 20, 1861, in *The War of the Rebellion, Ser. 1, Vol. 8*, 11.

⁷⁵ Gaines, *The Confederate Cherokee*, 60.

⁷⁶ Ibid., 77.

⁷⁷ Ibid., 77.

⁷⁸ Ibid., 77.

⁷⁹ Ibid., 84.

⁸⁰ Report of Brig. Albert Pike, 288.

⁸¹ Gaines, *The Confederate Cherokee*, 83.

Confederate officials omitted the Cherokee participation from the official reports due to allegations of scalping on the field, for which each Cherokee regiment blamed the other.⁸² The defeat at the Battle of Pea Ridge, where Drew's men were reluctant fighters at best, was the end of a united Cherokee support of the Confederate cause. With the Union army making progress in Arkansas, it would only be a matter of time before they entered Indian Territory.

The summer found the Confederate Cherokee completely disillusioned. During their time in the Confederate Army, they were paid only once, never properly armed, trained, or supplied to fight. Once again, the Cherokee faced abandonment as the Confederate Army withdrew before the advancing Union Army; all these actions were direct violations of the Treaty recently made with the Confederate Government.⁸³ In June, Union Colonel William Weer sent scouts into the Cherokee Nation, and after hearing their reports, he wrote, "John Ross is undoubtedly with us, and will come out openly when we reach there...[and] the Indians here will fight when under the protection of white men."⁸⁴ Weer's command included the Second Indian Home Guard, which included some of the same Cherokee that deserted to Opothleyhola the year prior, many of them eager to return home to exact revenge on those who burned and pillaged their homes as traitors since their defection.⁸⁵

As Union forces swept into Cherokee land, more and more Cherokee joined the Union cause. On 6 July 1862, Colonel John Ritchie marched his men to Flat Rock Creek; more than six hundred remaining Cherokee from Drew's regiment then joined the Union Army.⁸⁶ The First Cherokee Mounted Volunteers had officially ended. When Weer made initial overtures towards the Cherokee, Ross declined, citing Cherokee loyalty to their treaties.⁸⁷ However, on 12 July 1862, after receiving orders from Cooper to announce a Confederate conscription of all Cherokee between 18 and 35, Union Captain Harris Greeno arrested John Ross and his followers at Park Hill by Union.⁸⁸ Greeno quickly paroled Ross and informed the remaining Cherokee soldiers of

⁸² Ibid., 83, 88.

⁸³ Ibid., 97.

⁸⁴ William Weer to Thomas Moonlight, June 13, 1862 in *The War of the Rebellion, A Compilation of the Official Records of the Union and the Confederate Armies, Ser. 1, Vol. 13*, (Washington, D.C.: Government Printing Office, 1885) 431.

⁸⁵ Gaines, *The Confederate Cherokee*, 99.

⁸⁶ William Weer to Thomas Moonlight, 6 July, 1862, in *The War of the Rebellion, Ser. 1, Vol. 13*, 138.

⁸⁷ John Ross to William Weer, July 8, 1862, in *The Papers of Chief John Ross*, 516.

⁸⁸ Wiley Britton, *The Union Indian Brigade in the Civil War*, (Kansas City, Missouri: Franklin Hudson Publishing Co., 1922) 68.

Union victories. He declared that the Union did not want revenge for the Cherokee's betrayal, but only wanted to protect and restore the loyal Cherokees to their homes.⁸⁹ The speech and Union presence finally convinced Ross to rejoin the United States of America and he did so by revealing Confederate supplies posts in the areas.⁹⁰ On 16 July, Greeno left Park Hill with Ross and his family plus two hundred new recruits.⁹¹ They would become the Third Indian Home Guard, with a nucleus formed from Drew's former Confederate regiment.

CONCLUSION

During their time in the Confederate Army, the full-blooded members of the Cherokee Nation only fought half-heartedly for the Confederate cause. They were only paid once, and never properly armed, clothed, or trained for the type of war they were expected to fight.⁹² Many factors led to their Confederate allegiance, including: being abandoned by U.S. forces, having many of their Native neighbours join the Confederacy, and living under fear of being invaded by Confederate forces or being overthrown by Watie's Cherokee. With all these reasons, and very favorable treaty terms that were presented to them, the Cherokee had little choice but to fight for the Southern cause whether or not they believed in it at all. It seems unlikely that the Confederate government would have honored their treaty obligations, as they continually failed to do so during their short period of alliance with the Cherokee. Albert Pike appeared genuine in his dealing with all five of the Civilized Tribes; but, regardless of whether or not they could trust the Confederacy, the Cherokee had little choice but to trust Pike, try to get the best terms possible, and hope that the treaty would be honored. For their part, the Cherokee failed to honor their treaty obligations, with mass desertions beginning only weeks after allying with the Confederate army. Neither side seemed capable of living up to its side of the treaty agreements. The treaty was doomed to failure.

While Stand Watie and his followers were more enthusiastic about joining the Confederacy, they were more politically motivated than ideological in purpose. Watie had failed in the past to take power away from John Ross. When Ross joined the Union in 1862, Watie continued to fight for the Confederate army, hoping that if they prevailed, his chance to take

⁸⁹ Ibid., 69-70, 72.

⁹⁰ Gaines, *The Confederate Cherokee*, 111.

⁹¹ Ibid., 111.

⁹² John Ross to Thomas C. Hindman, June 25, 1862, in *The Papers of Chief John Ross*, 514.

power would arise. Ross acted based on what he felt was best for himself politically in order to secure his position as leader of the Cherokee Nation, by abandoning his neutrality and allies like Opothleyhola. But Ross also did what was best for his people, to ensure their safety. Now things had changed. The United States army returned to the Cherokee Nation, giving them protection against the Confederacy and Watie's Cherokee. Their Indian Territory neighbors were also starting to throw support to the Union cause, and having the knowledge that the Union did not wish for revenge gave the Cherokee courage to re-join the United States of America. Albert Pike summed up Ross' Cherokee participation well when he stated, "the 'loyal' Cherokees hated Stand Watie and the half-breeds and were hated by them...We did not pay and clothe them, and the United States did. They scalped for those who paid...for and clothed them."⁹³ The Cherokee now had the chance to fight for their own national reunification under the Stars and Stripes.

⁹³ Pike to Commissioner of Indian Affairs, 139.

Chapter 3

Within the Union Ranks

FORMATION OF THE THIRD INDIAN HOME GUARD

On 4 May 1862, General James Blunt took command of the newly established Department of Kansas, “compris[ing] [of] Kansas, Nebraska, Colorado, and the Indian Territories.”¹ Although reluctant, Blunt decided to follow orders to the best of his abilities.² Blunt’s predecessor, General Samuel Sturgis of the Department of Mississippi, was ordered to organize regiments of the “loyal Indians” made up of Creeks, Cherokees and Seminoles. However, Sturgis was against this idea, stating, “[i]t was not the policy of our Government to fight high-toned southern gentlemen, with Indians,” going so far as to threaten to arrest any officer who helped organize the Indians into military units.³ Once he took command, Blunt revoked Sturgis’ orders and formed the First and Second Indian Home Guard.⁴ The First Indian Home Guard was primarily made up of Creeks, while the Second Indian Home Guard consisted of Seminoles, Osages, Quapaws, and the Cherokees that took part in the mass desertion from Drew’s Regiment.⁵

General Blunt ordered Colonel William Weer into the Indian Territory to remove the enemy, return Native refugees to their homes, and retake Kansas and Southwestern Missouri in preparation for engaging Confederate General T.C. Hindman in Western Arkansas on 1 June 1862.⁶ Motivated by both military and political angles, Blunt planned to return the refugees to their homes in the hopes that this might allow the army to stop providing for the refugees and that the Indians would rejoin the Union, therefore eliminating the need for a lengthy campaign against the Indian forces. The arrival of Colonel Weer and his forces ended the Cherokees’ full support of the Confederacy. Once in the Cherokee Nation, Weer had a “great difficulty in

¹ James Blunt, *General Blunt’s Account of His Civil War Experience, Vol. 1, No. 3*, 211 to 256 (May 1932) http://www.kancoll.org/khq/1932/32_3_blunt.htm (Accessed July 17, 2015), 211, 218.

² *Ibid.*, 218.

³ *Ibid.*, 222.

⁴ *Ibid.*, 223.

⁵ William Phillips to Samuel Curtis, January 19, 1863, *War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies, Ser. 1, Vol. 22 pt. 2*, United States War Department (Washington, D.C.: Government Printing Office, 1888), 57.

⁶ *General Blunt’s Account*, 223.

restraining the Indians with [him] from exterminating the rebels” and noted that “a good deal of property has been destroyed in spite of all [his] efforts.”⁷ The Indians that Weer spoke of included the returning members of Drew’s Regiment, who were avenging the atrocities that happened to their properties and families when they joined the Union side.

By 12 July, Weer declared the Indian Territory “completely conquered” with nearly fifteen hundred Cherokee ready to enlist without pay, asking “only to be fed and armed, and perhaps a little clothing” for their loyalty.⁸ Why were the Cherokee willing to enlist without pay? Weer noted that “the Pins or friendly Indians are bit[t]er against the half-breeds and want to exterminate them,” once again showing that the Civil War brought old feuds to the surface. Weer formed the new Cherokee into the Third Indian Home Guard and waited for them to be officially mustered into service.⁹ Upon hearing about Weer’s success, General Blunt ordered Weer to return the Cherokee to their homes and to ascertain if the corn crop would be enough to feed them. Perhaps Blunt’s motivation was to see if the army would be able to stop providing relief for the refugees.¹⁰ Things were looking up for the Union Cherokee people, as they were returning home and finally “feeling [full] of [the] confidence and security” that they long desired.¹¹ With the formation of the Third Indian Home Guard, the Cherokee were able to protect themselves from the horrors of the Civil War around them.¹² However, things quickly turned sour for the Cherokee people.

ABANDONED AGAIN

Although Weer was successful in conquering the Indian Territory, he did so at a great cost in the eyes of his fellow officers. Described as “abusive and violent in his intercourse with his fellow-officers,” with a bad drinking problem, Weer was not very well liked.¹³ Weer did what he felt was best to achieve his goal. Some of his methods included: long periods of food rationing, disregarding proper military discipline, ignoring the suggestions of his fellow officers,

⁷ William Weer to Thomas Moonlight, July 6, 1862, *War of the Rebellion, Ser. 1, Vol. 13*, 138.

⁸ William Weer to Thomas Moonlight, July 12, 1862, *War of the Rebellion Ser. 1, Vol. 13*, 487-8.

⁹ *Ibid.*, 488.

¹⁰ *Ibid.*, 488.

¹¹ *Ibid.*, 489.

¹² *Ibid.*, 488.

¹³ Wiley Britton, *The Union Indian Brigade*, 63; Frederick Salomon to James Blunt, July 20, 1862, *War on the Rebellion, Ser. 1, Vol. 13*, 484.

and keeping no communication with his officers for long periods.¹⁴ On 20 July 1862, Colonel Frederick Salomon of the Ninth Wisconsin Volunteers, who took command with the intention of leading the Union Army back out of the Indian Territory to reopen communications with the army's supply lines, arrested Weer.¹⁵ Salomon acted on the false pretense that "a large rebel force was flanking him on the east."¹⁶

This demoralized the Cherokee. Their once joyous return to their homeland was replaced again by feelings of abandonment, fear and vulnerability. Seeing no other alternative, many Cherokee followed the exiting army back to Kansas out of fear of retaliation by the Confederate Cherokee, leaving their newly planted crops to rot in the ground.¹⁷ John Ross was in a difficult situation. Having now placed his allegiances with the Union, he left himself particularly vulnerable to Watie and his followers, but leaving meant abandoning his people. Despite pleas from Salomon, Ross chose to stay and protect the Cherokee who remained, to the best of his ability.¹⁸ Left behind in Indian Territory were the three Indian Home Guard units under the Command of Colonel Furnas "without definite orders of instructions."¹⁹ Again, feeling abandoned, members of the First and Second Indian Home Guard deserted to protect their homes. Seeing the situation with the other two regiments, Colonel Furnas ordered Phillips and the Third Indian Home Guard to Pryor Creek to forage and keep them away from the other demoralized units.²⁰

Upon hearing about Salomon's withdrawal from the Cherokee Nation, General Blunt sent messengers to Salomon to halt his return to Fort Scott and immediately send reinforcements back to the Indian Regiments in the Cherokee Nation.²¹ Blunt also sent Colonel William Cloud to Tahlequah to remove John Ross from the nation for his own safety.²² On 3 August 1862, Ross, along with his family and the treasury of the Cherokee Nation, left the Cherokee Nation with an armed guard made up of Cloud's troops and the F Company of the Third Indian Home Guard to

¹⁴ Ibid., 484.

¹⁵ Ibid., 484-5; *General Blunt's Account*, 223.

¹⁶ Ibid., 223.

¹⁷ Patrick N. Mingos, *Slavery in the Cherokee Nation*, 144; Britton, *The Union Indian Brigade*, 83.

¹⁸ Mingos, *Slavery in the Cherokee Nation*, 144.

¹⁹ Wiley Britton, *Civil War on the Border*, 308.

²⁰ W. Craig Gaines, *The Confederate Cherokees*, 114.

²¹ Blunt, *General Blunt's Account*, 223.

²² Britton, *The Union Indian Brigade*, 74.

go to Baxter Springs, Kansas.²³ From Baxter Springs, Ross made his way to Philadelphia to obtain support for his people and wait out the rest of the war. He never saw his homeland again. Following the Union Army and Ross' exile from the Cherokee Nation, Stand Watie seized the opportunity to reassert control. On 21 August, Watie held a Cherokee General Council in Tahlequah where Watie became Principal Chief and subsequently filled all official positions with Confederate Cherokee.²⁴ The new Cherokee council reaffirmed the Treaty with the Confederacy, declared all Cherokee deserters to be traitors, and later passed a Conscription Bill that required all Cherokee men sixteen to thirty-five to join the Confederate Army.²⁵ The Confederate Cherokees hunted down disloyal Cherokee, seizing their property. Watie's men raided and looted John Ross' home. The actions of Salomon, Ross, and Watie would have large repercussions for the Cherokee Nation, but for now, members of the Third Indian Home Guard had a motivation to continue fighting, in hopes of reclaiming their nation.

WITHIN THE UNION RANKS

On 9 August 1862, John Ross arrived at Fort Scott where he later met General Blunt. At the time, Blunt had left his post at Fort Leavenworth to assume command of Salomon's men.²⁶ Blunt encouraged Ross to go to Washington to meet with Lincoln and discuss "the condition of his people and their attitude towards the Federal Government."²⁷ The rest of Union Cherokee were left to adapt to life within a new military system.

The Cherokee changed from reluctant fighters to enthusiastic participators in the Civil War, but they did not share the same goals as their Union counterparts. While the Union army fought for the preservation and reunification of the country as a whole, the Cherokee were fighting for the preservation and reunification of their own nation.²⁸ Members of the Cherokee Third Indian Home Guard were from many different parts of the Southern United States, but the majority were listed as being from the Cherokee Nation or Georgia ("the Old Cherokee

²³ Gaines, *The Confederate Cherokees*, 115.

²⁴ Minges, *Slavery in the Cherokee Nation*, 146-7.

²⁵ *Ibid.*, 147.

²⁶ Blunt, *General Blunt's Account*, 223.

²⁷ James Blunt to Abraham Lincoln, August 13, 1862, *War of the Rebellion, Ser. 1, Vol. 13*, 565.

²⁸ Trevor Jones, "In Defense of Sovereignty: Cherokee Soldiers, White Officers, and Discipline in the Third Indian Home Guard," *Chronicles of Oklahoma*, 82 (Winter 2004-05): 413.

Nation”).²⁹ For the most part, the soldiers in the regiment were farmers, due to their traditional agricultural lifestyle. There were also carpenters, blacksmiths, a teacher, a professional gambler, a dentist, and even a magician.³⁰ No matter what their former occupation was or where they came from, these Cherokee men were now soldiers of the United States army.

From the first moment of their introduction into the Union ranks, the Cherokee soldiers noticed drastic changes. Unlike the neglect the Cherokee faced in the Confederate ranks, the Union put a lot of time into the training and discipline of the new Cherokee soldiers. Under the command of William Addison Phillips, a lawyer and abolitionist from Kansas, the Union Army attempted to mould the Cherokee into their traditional view of a Union soldier.³¹ From the start, Phillips wished the Third Indian Home Guard soldiers to adhere to the same rules and regulations as all soldiers of the Union army. This included regimented bi-weekly drills as well as regular inspections and parades.³² The result was what Colonel Phillips described as soldiers “well drilled as many white regiments that have been a longer time in service”.³³ To ensure that the Native soldiers were at their best, Phillips banned alcohol from within the ranks, feeling “the efficiency and existence of the Indian Command depends on the enforcement of this order.”³⁴ Although Phillips did have the well-being of his soldiers in mind, perhaps he had images of the “drunken Indian” when he made this order. As such, reports of drunkenness amongst the Third Indian Home Guard remained much lower than in other regiments serving alongside them.³⁵ While in the Confederate ranks, the Cherokee picked their own commanding officers. The majority of those chosen were political leaders within the Cherokee Nation prior to the war; however, within the Union army, things were different.³⁶ The Union Army assigned the Third

²⁹ Regimental Descriptive Book, 3D Indian Home Guard, Records of the Adjutant General’s Office, Book Records of Volunteer Union Organizations, U.S. Army Continental Commands Successions of Commands; RG 94, Vol. 1 of 5, (Washington, D.C.: National Archives).

³⁰ Ibid.

³¹ Jones, *In Defense of Sovereignty*, 415.

³² General Order No. 18, Colonel Phillips, June 19, 1863, *Regimental Order Book, 3D Indian Home Guard, Books Records of Volunteer Union Organizations, Records of the Adjutant General’s Office, U.S. Army Continental Commands Successions of Commands, RG 94, Vol. 3 of 5*, (Washington, D.C.: National Archives), 13.

³³ William Phillips to Samuel Curtis, January 19, 1863, *War of the Rebellion, Ser 1, Vol 22*, pt. 2, 57.

³⁴ Special Order No. 19, Colonel Phillips, June 18, 1863, *General and Special Orders. Jan. 1863-June 1864. In Vol. 92/283, U.S. Army Continental Commands Successions of Commands*, (Washington, D.C.: National Archives), 571.

³⁵ Jones, *In Defense of Sovereignty*, 422.

³⁶ Confer, *The Cherokee Nation in the Civil War*, 7; Jones, *In Defense of Sovereignty*, 414.

Indian Home Guard officers, with most of the higher ranks going to white officers. Many of the first lieutenants and sergeants were white, as suggested by Colonel Phillips, but the Cherokee made up the majority of second lieutenant and second to fifth sergeants positions.³⁷ Union officials, including Phillips, believed the white officers were important to maintaining efficiency of the Cherokee troops. Before long the Cherokee Third Indian Home Guard soldiers were tested.

CHEROKEE SOLDIERS IN ACTION

The Third Indian Brigade took part in various skirmishes and missions, most notably the Battles of Newtonia and Prairie Grove. On the early morning of 30 September 1862, now Brigadier General Salomon ordered the Third Indian Home Guard, along with Sixth Kansas Volunteer Cavalry, into action after heavy fire could be heard coming from Newtonia, Missouri.³⁸ The regiments discovered enemy pickets one mile from Newtonia and Lieutenant Colonel Jacobi ordered the two units to intercept the pickets before the enemy could reach the main Confederate army nearby.³⁹ When Salomon arrived, he found the two regiments under heavy fire, with the enemy “in [a] strong position behind stone walls and massive buildings.”⁴⁰ Salomon ordered the Third Indian Home Guard to take up the left flank and the Sixth Kansas the right, while Salomon himself took up the middle. Salomon’s plan was to hold the enemy at bay until Colonel Hall and his two regiments took the enemy’s flank, but Hall never showed up, forcing Salomon to retreat. The Cherokee were under heavy enemy fire for nearly two and half hours, and held their ground “even after they had orders to retreat,” until they were out of ammunition.⁴¹ Phillips later wrote to John Ross that his men “behaved very gallantly.”⁴² The Cherokees’ actions prevented the Confederates from gaining a decisive victory by stopping the enemy’s numerous attempts at taking the Union’s left flank.⁴³

³⁷ Ibid., 414; Phillips to Curtis, January 19, 1863, *War of the Rebellion, Ser. 1, Vol. 22*, pt. 2, 57.

³⁸ Report of Brig-General Frederick Salomon, October 1862, *War of the Rebellion, Ser. 1, Vol. 13*, 287.

³⁹ Report of Lieutenant-Colonel Arthur Jacobi, October 3 1862, *War of the Rebellion, Ser. 1, Vol. 13*, 293.

⁴⁰ Report of Salomon, October, 1862, 287.

⁴¹ John Ross to Edwin M Stanton, November 8, 1862, 521.

⁴² Ibid., 521.

⁴³ Ibid., 287; William Phillips to Samuel Curtis, January 19, 1863, 57; John Ross to Edwin M Stanton, November 8 1862, *The Paper of John Ross*, 521; Daniel I Chandler to John Stillman Brown, February 7, 1863, *The John Stillman Brown Family Papers, 1818-1907, Roll 2* (Topeka: Kansas State Historical Society, 1967), 755.

Later, on 7 December 1862, the Cherokee Third Indian Home Guard took part in the Battle of Prairie Grove in Arkansas. Initially ordered by Colonel Weer to protect the supply train, the Cherokees, under the command of Adjutant General Gallaher, joined the main force and took up the right flank of Captain Quigg's Tenth Kansas Cavalry.⁴⁴ When the Union attained victory after a six-hour battle, Weer singled out the "Cherokees [who] did noble service in protecting the right flank of the Tenth Kansas."⁴⁵ Colonel Blunt later described the importance of the Battle of Prairie Grove with "the fate of Missouri and Kansas" at stake and felt a Confederate victory would have left the path north to St. Louis unchallenged.⁴⁶ The reports from the Battles of Newtonia and Prairie Grove showed the effectiveness and importance of the Third Indian Home Guard in securing Union victories that helped not only themselves, but also the Union cause itself.

About 220 miles from Tahlequah on 17 December 1863, near Barren Fork Tennessee, a force of about two hundred and ninety men made up of the First, Second, and Third Indian Home Guards under Captain Alexander Spilman's B Company ran into a superior force of Confederate troops.⁴⁷ The two sides fired at each other for nearly two hours under heavy brush. Spilman was eventually able to draw the enemy out by appearing to abandon his position before his men rallied and sent the Confederates fleeing the battlefield.⁴⁸ Spilman singled out Lt. Parson and his E Company of the Third Indian Home Guard as one who "tended greatly to secure our success."⁴⁹ This is an example of the effectiveness of the Third Indian Home Guard on their own, outside of the umbrella of a larger Union force. Whether with the Union forces or on their own, the Cherokee were able to fulfill their part for the defence of the Cherokee Nation and the Union cause. Colonel Phillips noted the Cherokee soldiers provided "efficient service" for the Union Army.⁵⁰

⁴⁴ Report of Colonel William Weer, December 12, 1862, *War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies, Ser. 1, Vol. 22, pt. 1*, United States War Department (Washington, D.C.: Government Printing Office, 1888), 89-90.

⁴⁵ *Ibid.*, 90.

⁴⁶ General Blunt's Account, 234.

⁴⁷ Report of Captain Alexander C Spilman, December 23, 1863, *War of the Rebellion, Ser. 1, Vol. 22, pt. 1*, 781.

⁴⁸ *Ibid.*, 782.

⁴⁹ *Ibid.*, 783.

⁵⁰ William Phillips to Major Gamby, January 21, 1865, *Book 282, Letters Received and Sent. Jan-May 1865, U.S. Army Continental Commands Successions of Commands, RG 393, Vol. 92* (Washington, D.C.: National Archives), 22.

CHEROKEE OFFICERS AND SOLDIERS

Even though Union officials assigned the Cherokee regiment officers during the Civil War, Cherokee political leaders took many of the top military positions available to them. Perhaps they were chosen due to the fact that the Cherokee political leaders were of mixed-blood ancestry and were able to speak both English and Cherokee. These officers performed a dual balancing act as both military and political leaders during the Civil War, by adhering to military rules while simultaneously not alienating their own citizens.⁵¹ One area where they made an impact was in the form of military discipline. Desertion was an epidemic that plagued both sides throughout the Civil War, and the Third Indian Home Guard was no exception. Phillips described the high desertion rates as “a chronic Indian weakness.”⁵² However, the Third Indian Brigade’s desertions could be cultural or a difference of opinion about proper behaviour of soldiers. What the Union Army considered desertion, the Cherokee soldiers considered merely a long furlough to check on their families.⁵³ As much of the fighting was occurring so close to home, the Cherokee soldiers were no doubt worried about their homes and loved ones. When Daniel Ross wrote to his uncle, he stated that the most prominent the worry amongst the soldiers was that they “not being permitted to go home” and found it very “cruel and discouraging.”⁵⁴ With this sense of concern, many Cherokee soldiers left the ranks for days, or sometimes weeks, at a time, and the Union reported them as deserters. However, these same reports showed that a large portion of those “deserters” returned to duty on their own accord. This goes back to the old ways valued by the Keetoowah, where Cherokee soldiers were free to come and go as they pleased. Upon their return, the question came up how to punish soldiers for these crimes. Normal punishment for desertion called for physical punishment or hard labour, but the Cherokee officers were well aware that these actions could cause disillusion among the Cherokee soldiers that could lead to an actual desertion from the Union cause.⁵⁵ Instead of physical punishment, the Cherokee officers simply withheld payment from the Cherokee troops for the time that they were away.⁵⁶ Perhaps in agreement with this tactic, white commanding officers

⁵¹ Jones, *In Defense of Sovereignty*, 418.

⁵² William Phillips to Samuel Curtis, January 19, 1863, 58.

⁵³ Confer, *The Cherokee Nation in the Civil War*, 100-1.

⁵⁴ Daniel Ross to John Ross, December 2, 1862, *The Papers of Chief John Ross*, 523.

⁵⁵ Jones, *In Defense of Sovereignty*, 418.

⁵⁶ *Ibid.*, 419.

usually upheld these rulings and sometimes even lowered the sentences.⁵⁷ The white officers showed a lot of patience when dealing with their Cherokee soldiers by “not [trying] to enforce so rigid a discipline, as is common in white regiments.”⁵⁸ The Cherokee officers were, without a doubt, a strong reason that the Third Indian Home Guard continued to fight throughout the Civil War.

Despite the importance of the Cherokee officers in maintaining Cherokee participation in the war, overall, their superiors did not view them well. The Cherokee officers did not efficiently keep up with the various reports and other written correspondence. This could be another cultural difference, as the Cherokee culture tended to give more importance to oral records, history passed on person to person, over written ones.⁵⁹ In his inspection report on 22 April 1865, Captain James Phillips, not to be confused with Colonel William Phillips, reported that the “Indian officers are worse than none, doing very little duty themselves, and where superior in rank to white officers, embarrassing their actions.”⁶⁰ Essentially, Captain Phillips was blaming the inferiority of some of his white officers on their Cherokee officers. However, James Phillips did not have a high opinion of any of the Native regiments, calling them “poor soldiers at best” based on their appearance.⁶¹

These issues could be due to the constant lack of proper supplies needed for the upkeep of the Cherokee regiments.⁶² A white Union soldier recalled how the other soldiers found it humorous to see the Cherokee soldiers dress in clothes that “lacked a good deal in fitting him... a marked degree either too large or small.”⁶³ However, Captain Phillips may not have had the best opinion of the Cherokee soldiers to begin with. During the enrolment of the Third Indian Home Guard’s C Company, Captain Phillips repeatedly referred to the unemployed Cherokee men as “Loafers” under job description.⁶⁴ Colonel William Phillips blamed the unsatisfactory

⁵⁷ Ibid., 420.

⁵⁸ Daniel Chandler to John Brown, February 7, 1863, 755.

⁵⁹ Confer, *The Cherokee Nation in the Civil War*, 98.

⁶⁰ James Phillips to A. D. Nelson, April 25, 1865, *Book 167, Letters Sent by the Acting Assistant Inspector General, Feb. 1865-Feb. 1866, Dept of Arkansas No. 57 Special Orders. 1863*, U.S. Army Continental Commands Successions of Commands, RG 393, Vol. 57, pt. 2, (Washington, D.C.: National Archives), 40.

⁶¹ Ibid., 40.

⁶² Confer, *The Cherokee Nation in the Civil War*, 99; James Phillips to A. D. Nelson, Fort Smith, April 25, 1865, 38-41.

⁶³ Britton, *Civil War on the Border*, 299.

⁶⁴ Regimental Descriptive Book, Vol. 1 of 5.

work of the Regiments on its white officers, calling it “a blunder to put men of poor ability in an Indian regiment.”⁶⁵ Others, who blamed the Cherokee officers for the failures of the Cherokee soldiers in the Third Indian Brigade and rarely gave them the proper credit for maintaining Cherokee support in the Union army, shared the most negative opinions against the Cherokee officers. The Cherokee soldiers followed their leaders into battle, not their Union officers.

The Cherokee soldiers themselves received mixed opinions from the Union Army during their time in the army. Each battalion provided an interpreter for each white officer and all orders were written in the Cherokee language, as most of the Cherokee did not speak English.⁶⁶ Despite these precautions, the language barrier may have been an issue in respect to the Cherokee effectiveness as a unit, so the fact that they were successful says a lot about them as soldiers. The Cherokee soldiers’ conduct in various battles and skirmishes showed “that [their] bravery [was] established beyond cavil, or dispute.”⁶⁷ In his 1922 book, *The Union Indian Brigade in the Civil War*, Wiley Britton, who served alongside the Third Indian Home Guard, noted that the other soldiers appeared to be scared of the Cherokee regiments, notably when using war cries and covered in war paint. Britton also noted the Cherokees’ honourable conduct when on enemy homesteads and their good treatment of enemy prisoners.⁶⁸ In part due to their superior horsemanship and “thorough knowledge of their own Country,” the Cherokee made excellent scouts and were most effective when deployed as such.⁶⁹ Colonel Philips described his Cherokee soldiers’ success as follows: “As mounted riflemen[,] no corps of men would be more effective.”⁷⁰

Captain Phillips and some other Union officials viewed Cherokee soldiers as undisciplined, lazy, and overall poor soldiers. Laziness seemed to be the most common description given the Third Indian Home Guard. Much like the rest of the Union Army soldiers, when not performing their military duties, the Cherokee soldiers worked various jobs for the army such as scouts, clerks, laborers, guards, escorts, cattle drivers, stock herders, orderlies,

⁶⁵ William Phillips to Samuel Curtis, January 19, 1863, 58.

⁶⁶ Wiley Britton, *The Union Indian Brigade*, 195-6; Special Order No. 4, Colonel Weer, June 11, 1862, Book 972; *Special Orders. June 1862-June 1863*. U.S. Army Continental Commands Successions of Commands, RG 393, Pt. 2, Vol. 392, (Washington, D.C.: National Archives Building).

⁶⁷ Daniel Chandler to John Brown, February 7, 1863, 755.

⁶⁸ Wiley Britton, *The Union Indian Brigade*, 188.

⁶⁹ John Ross to Edwin M. Stanton, November 8, 1862, *The Papers of Chief John Ross*, 521.

⁷⁰ *Ibid.*, 521.

blacksmiths, carpenters, and hospital stewards. Private Daniel L. Chandler, a hospital steward who worked with the Third Indian Home Guard, complained about the laziness of the Cherokee soldiers assigned to him as stewards, describing them as “provokingly slow in [their] movements,... indolent, and will not work much...[nor] endure hardship or fatigue.”⁷¹ Colonel Phillips reported “the besetting sin of Indian is laziness.”⁷² However, this perceived laziness could once again be a cultural difference about proper behaviour. From the moment that Europeans came into contact with Native Americans they perceived Native laziness. Indian men did not toil in the farming fields, as was the custom in European societies.⁷³ Leaving all of the agricultural duties to women, Cherokee men spent their time hunting and engaging in other endeavours considered by Europeans to be recreational. The Cherokee soldiers put more emphasis on fighting than they did on manual labour, such as the digging of sinks or trenches.⁷⁴ Chandler described the Cherokee as slow to move until they saw the enemy, when they became “all life and animation,” showing the importance of fighting for the Cherokee soldiers.⁷⁵ The white’s views all contrasted with how the Cherokee viewed themselves as soldiers in the army.

The Cherokee entered the Union forces with different goals and motivations than the rest of the Union army. It makes sense that they had a different point of view of their success. In a letter to Secretary of War Edwin Stanton, Ross noted the success of the Cherokee as scouts and the loss of their own horses during the war.⁷⁶ The Cherokee soldiers were at a disadvantage, having to fight as mounted infantry with their own ponies, sometimes so small that their feet almost touched the ground. Yet they were still able to be an effective unit.⁷⁷ In the same letter, Ross noted the Cherokees’ participation at the Battle of Newtonia and the strong vote of confidence given to the Cherokee soldiers by Colonel Phillips.⁷⁸ White Catcher, from I Company, wrote to John Ross in December 1862 that the Third Indian Home Guard soldiers were tested in various battles and had “proven themselves second to none,” but also that fighting

⁷¹ Daniel Chandler to John Brown, February 7, 1863, 754.

⁷² William Phillips to Samuel Curtis, January 19, 1863, 58.

⁷³ Johnston, *Cherokee Women in Crisis*, 15.

⁷⁴ General Order 6, Colonel Phillips, January 12, 1863, *Regimental Order Book*, Vol. 3 of 5, 3.

⁷⁵ Daniel Chandler to John Brown, February 7, 1863, 755.

⁷⁶ *Ibid.*, 521.

⁷⁷ Britton, *Civil War on the Border*, 299.

⁷⁸ *Ibid.*, 521.

with their homes in view was difficult for the men.⁷⁹ L Company's Nathaniel Fish also wrote to Ross that the Third Indian Home Guard "has been pronounced one of the very the best in the field" by Colonel Phillips himself.⁸⁰ The Cherokee put more emphasis on militaristic merits than on manual labor.

The Cherokee relished the fact that Colonel William Phillips was their commanding officer. Fish noted in the same letter to Ross that Phillips' continuing ambition was to attain the highest degree of military discipline from the Cherokee and that he appeared to have an understanding of the Cherokee plight and did what he could to advance the Cherokee cause.⁸¹ The Cherokee held Colonel Phillips in high regard, so much so that when Union officials removed Phillips from this command in September of 1864, Ross wrote to Stanton to request Phillips' restoration, which was granted by December.⁸² Colonel Phillips, for his part, worked hard with the Cherokee soldiers to make them the best that he could, which included banning liquor and providing white officers to complement each regiment. Phillips pushed hard for the early mustering out of the Cherokee during the later stages of the war so that the men could help their families to plant the yearly crops. He later introduced a bill in congress to allow men from the Home Guard regiments listed as deserters to obtain full military benefits.⁸³ His argument was that Cherokee officers often granted leaves of absence to their soldiers, although they did not report them to the white officers to add to the reports. Although he never attained pure military discipline from the Third Indian Home Guard, Phillips showed a great deal of patience with his Cherokee soldiers, as he was aware of their value within the war in Indian Territory and the hardships that they endured in the past. Phillips showed a lot of pride in his soldiers, describing them as "the only Indian regiment that is a real success," priding himself on how well they turned out in comparison to the other two Native regiments, particularly the First Indian Home Guard, which he described as "inferior to the Cherokees" and disgraceful.⁸⁴ Phillips made numerous requests on behalf of his men to have them declared a mounted infantry unit. Such designation would have allowed the Cherokee soldiers to be supplied with Union horses rather

⁷⁹ White Catcher to John Ross, December 2, 1862, *The Papers of Chief John Ross*, 522.

⁸⁰ Nat Fish to John Ross, January 23, 1863, *The Papers of Chief John Ross*, 532.

⁸¹ *Ibid.*, 532.

⁸² John Ross to Edwin M. Stanton, August 24, 1864, *The Papers of Chief John Ross*, 607.

⁸³ Jones, In Defense of Sovereignty, 423; Phillips to Secretary of War, Fort Gibson, CN, January 8, 1865, *Book 282; Letters Sent*, 16

⁸⁴ William Phillips to Samuel Curtis, January 19, 1863, 57.

than using their own and provide a foraging allowance for the upkeep of their horses.⁸⁵ These requests went unheard until late in the war, when General Grant finally approved a supply of fresh horses for the Third Indian Home Guard.⁸⁶ Together, Phillips and the Cherokee fought for different goals, but contributed to each other's successes.

CONCLUSION

Much like in the civilization programs, the Cherokee ended up incorporating the military system into their own longstanding political system, with their own political leaders in positions of power within the Union Army. They used the army to advance their own agenda for the Cherokee nation's sovereignty and reunification, joining the Civil War by their own choice. From their reluctant alliance with the Confederacy to their desertion to the Union side, the Cherokee soldiers fought to the best of their abilities within a strange and different military system, but did so under their own terms and rules. While they may not have come across as the traditional soldier and their superior officers looked down upon them, the Cherokees of the Third Indian Home Guard were a success in their part of the Civil War by helping the Union army attain control in the Indian Territory. As John Ross wrote to Phillips, "The Cherokee troops have long served, and performed arduous duties, in many a hard and well fought battle, in Kansas, Missouri[,] Arkansas[, and] the Indian Territory and in which glorious victories have been achieved!"⁸⁷ However, the wars on the battlefields were not the only battles fought during this time. The Cherokee citizens fought their own skirmishes against an enemy deadlier than bullets: disease and destitution. Ross continued to do what he could to help his people through various visits to Washington. All the while, Ross and Watie continued their struggle for power that affected the way the Cherokee Nation developed following the end of both civil wars.

⁸⁵ Ibid., 58; William C Moffat Jr, "Soldiers Pay," *Cincinnati Civil War Round Table*, January 1965, http://www.cincinnatiwrt.org/data/ccwrt_history/talks_text/moffat_soldiers_pay.html (accessed July 10, 2015).

⁸⁶ Special Order No. 30, Colonel Phillips, June 8, 1864, *Book 282, Letters Sent*, 312.

⁸⁷ John Ross to William Phillips, January 4, 1863, *The Papers of Chief John Ross*, 525.

Chapter 4

Politics and the Bleeding Nation

TROUBLE ON THE HOMEFRONT

With bullets flying across the battlefields throughout the Indian Territory, other battles continued. Prior to the Civil War, the Cherokee were one of the most economically stable Native American groups in North America. Now, the Cherokee people struggled for the most basic necessities required to survive: food, clothing, and shelter.

Cherokee citizens needed immediate help from “not only actual destitution but positive suffering.”¹ During his exile, John Ross remained in constant communication with members of his family and soldiers of the Third Indian Home Guard about the condition of his people. Reports came to Ross about Cherokee refugees forced to sleep out in the open due to a lack of tents and their need for shoes and clothing.² In a letter to his uncle, William Ross reported the harsh winter weather at the end of 1863 caused many refugees to freeze to death.³ Both Cherokee soldiers and refugees required proper clothing to survive their wartime experiences, with many wearing what could be described as rags while others wore even less. Death due to exposure was a constant worry for the Cherokee people, and, unfortunately, not the only one.

Food was hard to come by for anybody in the Southern United States during the Civil War, and the Cherokee Nation was no different. Their enemies forced them from their homes, taking away one of the primary sources of food for the Cherokee: agriculture. The split within the Cherokee Nation forced many Cherokee refugees to leave their crops in the soil in favor of following the Union army for protection. Confederate General Douglas Cooper pillaged and burned Cherokee crops upon learning of the imminent arrival of Union forces to the Cherokee Nation in 1863, leaving the land barren of resources.⁴ Without proper protection, the Cherokee

¹ William Ross to John Ross, January 11, 1864, *The Papers of John Ross*, 552.

² Huckleberry Downing, et al, to John Ross, January 8, 1863, *The Papers of John Ross*, 529; United States, Office of Indians Affairs, Report No. 103, May 26, 1863, *Annual Report of the Commissioner of Indian Affairs, for the year 1863*, Southern Superintendency (Washington, D.C.: Government Printing Office, 1863), 205.

³ Williams Ross to John Ross, January 11, 1864, *The Papers of John Ross*, 551.

⁴ William Phillips to Samuel Curtis, January 19, 1863, *War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies, Ser. 1, Vol. 22 pt. 2*, 55.

were never able to plant sufficient crops to sustain themselves.⁵ Colonel William Phillips wrote to Major General Samuel Curtis about the destitution in the Cherokee Nation and how “every time a train goes down in to the Nation with flour or mea[t] there are hundreds of hungry persons who have been waiting for days [for relief].”⁶ L Company’s Nathaniel Fish wrote of the need for bread and Phillips’ attempts to meet the needs of the Cherokee refugees.⁷ Whenever possible, Phillips sent his soldiers to mills to make wheat for both the soldiers and refugees, despite the long distances required to do so.⁸ Phillips also outlawed foraging by his soldiers without official permission, in order to protect the few resources available.⁹ Despite these efforts, there was never enough food to go around in the Cherokee Nation. The Cherokee owned a large amount of cattle, but as the war went on those numbers dwindled due to seizures by both the Confederate and Union armies and raids by Watie’s forces and cattle rustlers.

Cattle rustling was a problem for all the Civilized Tribes during the Civil War. Rustlers herded the Cherokee cattle into Kansas to sell to the highest bidders. The situation got so bad that part of the Third Indian Home Guard’s regular duties included acting as a pseudo-police force charged with the location and apprehension of cattle rustlers.¹⁰ However, there was a belief amongst the Cherokee that their property was being illegally seized by U.S. contractors.¹¹ Known as sutlers, these contractors sold supplies to the Union Army during the Civil War. The most well-known sutler working in Indian Territory was McDonald & Co., run by Alexander McDonald and Perry Fuller. Daniel Ross wrote to his uncle that the firm was wasting the money given to them for both the Cherokee soldiers and refugees, by over-charging for beef and giving them sub-standard supplies.¹² George Ross later wrote to his father that the Cherokee soldiers believed they were “not being fairly dealt [with]... [and] the Principle that ‘any thing will suffice

⁵ Report No. 113 1/2, *Report of Commissioner of Indian Affairs, 1863*, 215.

⁶ William Phillips to Samuel Curtis, February 11, 1863, *War of the Rebellion Ser. 1, Vol. 22 pt. 2*, 109.

⁷ Nathaniel Fish et al to John Ross, January 23, 1863, *The Papers of John Ross*, 532.

⁸ George Ross to John Ross, *The Papers of John Ross*, 558; Colonel Phillips to Major-General Curtis, January 29 1863, *War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies, Ser. 1, Vol. 22 pt. 2*, 85.

⁹ General Order No. 6, Colonel Phillips, January 12, 1863, *Regimental Order Book, Vol. 3 of 5*, 7.

¹⁰ Special Order No. 31, Colonel Phillips, July 11, 1864, *Regimental Order Book, Vol 3. of 5*, 60-1.

¹¹ Report No. 82, *Report of Commissioner of Indian Affairs, 1863*, 179.

¹² Daniel H. Ross to John Ross, July 7, 1864, *The Papers of John Ross*, 597.

for the d-m Injins' is acted upon... [a] common expression of the set who are lining their pockets by swindling the Indian[s].”¹³

Colonel Phillips was aware of the accusations against McDonald & Co., and assured the Cherokee that he would “demand of the Secretary of War the removal of said firm,” and that a full investigation into the dealings of McDonald & Co was to transpire.¹⁴ Phillips wrote to the Secretary of the Interior about a “corrupt money corporation”, whom Phillips referred to as “creatures,” referring to McDonald & Co.’s abuse of powers causing suffering for the Cherokee people.¹⁵ Phillips accused the sutlers of having cattle rustlers steal Cherokee herds and illegally providing documents to take claim of said herds.¹⁶ According to Phillips, sutlers obtained only one eighth of all cattle owned by legal means, with the rest confiscated as contraband, and the Cherokee were not able to have said cattle returned, even with proof of ownership.¹⁷

Daniel Ross went further by naming those in league with Alexander & Co., including: Superintendent William G. Coffins, Fort Scott Commander Colonel Charles W. Blair, and Kansas Senator James H. Lane.¹⁸ Colonel Blair ordered his soldiers to herd cattle into Kansas and sent out another such party only to have them withdraw upon learning that Colonel Phillips sent soldiers to investigate.¹⁹ However, bringing charges against McDonald & Co was difficult for Phillips, as he wrote to Major General John Pope that “some of those whose duty it is to protect [the Cherokee] are undoubtedly in league with the thieves,” noting that the sutlers obtained permits from Superintendent Coffins.²⁰ Further making charges difficult were reports by U.S. officials in defense of sutlers and refuting the charges made by Colonel Phillips. Indian Agents Isaac Coleman, James Harlan, and George A. Cutler all denied any wrongdoing having occurred.²¹ Harlan in particular noted the lack of examples provided by Phillips of the Cherokee

¹³ George Ross to John Ross, July 7, 1864, *The Papers of John Ross*, 558

¹⁴ Daniel H. Ross, July 7, 1864, *The Papers of John Ross*, 597.

¹⁵ Phillips to Secretary of the Interior, February 3, 1865, *Book 282, Letters Sent*, 31.

¹⁶ Phillips to Secretary of the Interior, February 4, 1865, pg. 32, *RG 393, Vol. 92*.

¹⁷ United States, Office of Indians Affairs, Report No. 91a, *Annual Report of the Commissioner of Indian Affairs, for the year 1865*, Southern Superintendency (Washington, D.C.: Government Printing Office, 1865), 271.

¹⁸ Daniel Ross to John Ross, July 7, 1864, *The Papers of John Ross*, 597.

¹⁹ *Ibid.*, 597.

²⁰ William Phillips to John Pope, February 16, 1863, *RG 393, Vol. 92*, 39.

²¹ Report No. 93, *Report of Commissioner of Indian Affairs*, 1865, 273; Report No. 94, Report of Commissioner of Indian Affairs, 1865, 275; Report No. 95, *Report of Commissioner of Indian Affairs*, 1865, 274-9.

fighting against these accusations of oppression.²² The Cherokee were at the mercy of the sutlers and most unlikely to rise up against the hand that was feeding them. As Daniel Ross' letter showed, the Cherokee were aware of these injustices described by Colonel Phillips. However, Harlan himself reported on the theft of cattle by people illegally receiving licenses from the command posts. Even those without licences still found contractors willing to purchase cattle.²³ Harlan further noted that contractors "encouraged [cattle theft] to be done by buying them from those who stole them...in fact, the buyers of known stolen cattle [made] more money than the stealers."²⁴ These statements confirmed some of the charges by Phillips and the Cherokee regarding the sutlers. Evidently, Secretary of the Interior J. P. Usher sided with the sutlers on the matter, only taking exception to verbal contracts for the sale of beef being given by officials, stating "verbal contracts cannot be made or enforced."²⁵

These charges put Phillips at odds with McDonald & Co.; the latter attempted unsuccessfully to remove Phillips from his command. The McDonald & Co.'s actions gave Phillips reason to worry: "As they expected my steady hostility, it is fair that I should expect theirs."²⁶ For his part, Colonel Phillips sent out investigation parties throughout the Cherokee Nation and set up proper protocol for the killing of cattle to protect Cherokee stock.²⁷ Phillips requested that confiscated stolen cattle or beef be used by the military to feed Cherokee refugees, but Superintendent Coffins denied that request.²⁸ Phillips' actions further elevated his status amongst his Cherokee soldiers, but despite numerous requests, Union officials never sent an investigative commission nor laid any charges.

Disease was the biggest enemy to invade the Cherokee Nation during the Civil War. More Cherokee died from disease than from bullets. Measles and smallpox claimed many Cherokee lives; measles in particular spread quickly amongst the Cherokee children.²⁹ The death toll at one hospital was so high that Steward Daniel L. Chandler wrote that "[enough]

²² Ibid., 278.

²³ Report No. 99, *Report of Commissioner of Indian Affairs*, 1865, 286.

²⁴ Ibid., 286.

²⁵ Report No. 92, *Report of Commissioner of Indian Affairs*, 1865, 272.

²⁶ William Phillips to John Ross, June 14, 1864, *The Papers of John Ross*, 596.

²⁷ Special Order No. 11, December 30, 1864, *RG 94: Records of the Adjutant General's Office*, 74; Special Order No. 37, July 11, 1864, *RG 94: Records of the Adjutant General's Office*, 60-1.

²⁸ William Phillips to Secretary of the Interior, February 4, 1865, *RG 393, Vol. 92*, 32.

²⁹ Daniel Chandler to James Buxton, April 7, 1863, *The John Stillman Brown Family Papers*, 850.

boards cannot be procured for coffins.”³⁰ Stewards were soldiers that did the work of doctors, but without the pay. Illness was so high that the Cherokee were reluctant to allow the medical staff to leave, putting a strain on medical supplies.³¹ In the Neosho district, nearly one third of Cherokee citizens had died by March 1863, with one in eight dead or would die of disease during the war.³² The diseases worked fast amongst the Cherokee; it became common for men to “eat hearty, and die, a few hours, or minutes afterwards.”³³ Part of the blame for these epidemics was on the poor conditions that faced the Cherokee people during the war, such as lack of food, clothing, or shelter. However, an observation by Chandler shows that bad hygiene amongst the Cherokee people played a part in the spread of disease. Chandler wrote that the Cherokee “disregard the laws of health...eat enormous amount of animal food, [and] are rather filthy in their habits.”³⁴ The Union army took measures to give the proper vaccinations to the soldiers to contain the spread of small pox in March 1863; however, many soldiers still died in a hospital bed.³⁵ Disease, starvation, fear, and the war turned the once prosperous Cherokee Nation into the “bleeding nation” with salvation in the hands of others.

JOHN ROSS AND POLITICS

The Third Indian Home Guard made numerous requests to their superiors on the behalf of their families for help. In a letter to Secretary of the Interior Caleb Smith, Brigadier-General Blunt acknowledged the condition of the Cherokee people and that they were “honestly assuming on behalf of the United States the burden and responsibility of our misfortune.”³⁶ Major-General Samuel Curtis himself learned firsthand about the Cherokee refugees during one of his visits to encourage his soldiers. Visiting the soldiers, he told of learning about a Cherokee woman picking up corn scraps from horse feed.³⁷ Despite Curtis voicing his outrage, the Union Army did little to help with the Cherokee's ordeal beyond words of encouragement. The United States was at war with resources strained at the best of times, especially in the South. Despite

³⁰ Letter by Daniel Chandler, March 27, 1863, *The John Stillman Brown Family Papers*, 817.

³¹ *Ibid.*, 819.

³² *Ibid.*, 820; Daniel Chandler to John Brown, February 7, 1863, *The John Stillman Brown Family Papers*, 754.

³³ Daniel L. Chandler to John Brown, February 10, 1863, *The John Stillman Brown Family Papers*, 763.

³⁴ Daniel L. Chandler to John Brown, February 7, 1863, *The John Stillman Brown Family Papers*, 754.

³⁵ William Phillips to Samuel Curtis, March 20, 1863, *War of the Rebellion Ser. 1, Vol. 22 pt. 2*, 166.

³⁶ White Catcher to John Ross, December 2, 1862, *The John Ross Papers*, 522.

³⁷ George Ross to John Ross, February 7, 1864, *The John Ross Papers*, 557.

these obstacles, the Cherokee Nation continued to put faith in both their leader John Ross and the United States that relief would come.

Stand Watie and his followers took control of the Cherokee Nation in August 1862. Watie's Cherokee declared all positions within the Cherokee Council vacant and quickly established themselves in prominent roles in the new Cherokee political system. Watie's Cherokee Council reaffirmed the Confederate Treaty and declared a conscription for all able-bodied Cherokee men on behalf of the Confederate Army.³⁸ However, Colonel Phillips wrote to Major-General Curtis that the Cherokee of the Second and Third Indian Home Guards proposed a meeting of the Cherokee Council, ignoring the Cherokee Council set up by Stand Watie.³⁹ Phillips believed that the meeting would have "a happy effect on the other Indian Nations," and provided protection for the Council when they met.⁴⁰ On 26 February 1863, at Cowskin Prairies, the Ross-supported Cherokee Council met, under C Company's captain and now-acting Principal Chief Thomas Pegg. The Cherokee passed numerous bills to re-establish the Cherokee political hierarchy and strengthen their alliance with the Union Army.⁴¹ The bills passed by this Cherokee Council included: the abrogation of the treaty with the Confederacy, appointment of a delegation to meet John Ross to secure assistance from the U.S. Government, deposing of all Cherokee officials disloyal to the government, and the abolishment of slavery in the Cherokee Nation.⁴² Much like Lincoln's Emancipation Proclamation of the same year, the Cherokee hoped to cripple their adversaries, as a large portion of the slaves owned in the Cherokee Nation belonged to Watie's followers.

The distance between the Cherokee Nation and his new exile in Philadelphia did not stop John Ross from leading his people and doing what he felt was in their best interests during the Civil War period. He did this in the most advantageous way that he could: playing politics by using the Cherokee's current situation and history to gain concessions. When Ross lobbied to the U.S. Government requesting assistance, he regularly reminded the U.S. Government of the treatment of the Cherokee during the removal period or their abandonment at the beginning of the Civil War in order to forward Cherokee sovereignty and their current refugee issues. An

³⁸ Hauptman, *Between Two Fires*, 49.

³⁹ William Phillips to Samuel Curtis, January 29, 1863, *War of the Rebellion Ser. 1, Vol. 22 pt. 2*, 85.

⁴⁰ William Phillips to Samuel Curtis, no date, *War of the Rebellion Ser. 1, Vol. 22 pt. 2*, 97.

⁴¹ John Ross to Henry Meigs, March 9, 1863, *The Papers of John Ross*, 534.

⁴² John Ross to William P. Dole, April 2, 1863, *The Papers of John Ross*, 534-5.

example is Ross' suggestion to Secretary of War Edwin Stanton to reorganize the Indian Territory into its own military department.⁴³ Doing so would allow a permanent force of both Cherokee and white soldiers available to defend the Cherokee Nation, allowing Cherokee citizens to return to their homes and former lives.⁴⁴ However, there was another deeper political angle at work. Had Stanton agreed to this proposal, John Ross would have seen his control over the army and Indian Territory borders increased immensely. Ross attempted something similar during the Cherokee's time in the Confederate Army, by trying to have his nephew, Lieutenant Colonel William Ross, promoted to Brigadier General by Confederate Commissioner Albert Pike.⁴⁵ Had he been successful at getting his nephew promoted back in 1862, Ross would have attained some influence of power over the Confederate Cherokee regiments, which included Stand Watie's soldiers.⁴⁶ While Pike did forward a letter to the Confederate War Department about Ross' suggestion, there was no reply.

The Cherokee sent a delegation made up of Lieutenant Colonel Lewis Downing, Captain James McDaniel, and Reverend Evan Jones to Washington D.C. to assist John Ross with negotiations with the federal authorities.⁴⁷ The Cherokee National Council instructed the delegation, as well as all future delegations, to meet with the United States Government in order to achieve the following: 1) Make a new treaty that recognized the loyalty of the Cherokee people and reinstate all former treaty obligations; 2) Have the right to seize the property of all disloyal Cherokee, as their interests were not compatible with the Cherokee Nation as a whole; 3) Have all funds owed to the Cherokee paid to the proper authorities; 4) Get a fair price for the sale of the neutral land if needed, but if not then have Cherokee sovereignty declared and all intruders expelled; 5) Get compensation for Cherokee losses due to the war, with particular emphasis on the poorer families; 6) Require all foreign traders to obtain licences by the Cherokee's "authority of [their] Law making power"; and 7) To make a new treaty with favorable terms for the Cherokee as soon as possible.⁴⁸ While Ross and the Cherokee Nation attempted to protect the Cherokee people, the United States Government had ideas of its own.

⁴³ John Ross to Edwin M. Stanton, November 8, 1862, *The Papers of John Ross*, 521.

⁴⁴ *Ibid.*, 521.

⁴⁵ Gaines, *The Confederate Cherokees*, 94.

⁴⁶ *Ibid.*, 94.

⁴⁷ John Ross to Henry Meigs, March 9, 1863, *The Papers of John Ross*, 534.

⁴⁸ Lewis Downing to John Ross, October 18, 1864, *The Papers of John Ross*, 612-4.

THE DELAWARE SITUATION

In need of land for settlers, the U.S. Government hoped to remove the Delaware people from their Kansas homeland to a new homeland. Indian Territory seemed like an ideal place, but required permission from its inhabitants. The Cherokee and Delaware people had separate tribal organizations, histories, and cultures, and came from different parts of modern day America. The Delaware's traditional homeland encompassed the modern states of Delaware, New Jersey, New York, and Pennsylvania. The Delaware, a name later used to describe the descendants of the Unami and Munsee-speaking people of the Delaware and Hudson River valleys, were named after Virginian governor Baron De La Warr Thomas West by explorer Samuel Argall, who named the area's river valleys in his honor.⁴⁹ The Unami and Munsee Natives, later collectively known as the Delaware Indians, lived in politically self-governing tribal groups run by a male sachem or representative, and did not see themselves as a united political organization.⁵⁰ Much like the Cherokee, when the Unami and Munsee met Europeans for the first time in the seventeenth century, in this case Dutch and Swedes, Delaware populations collapsed due to disease and warfare.⁵¹ By the time the British established control of the remaining Unami and Munsee-speaking people, these groups had joined villages along Susquehanna, Allegheny, and Ohio rivers and became collectively known as the Delaware.⁵²

During the Revolutionary War, the Delaware sided with the British, and following the war, some of the groups moved to Canada. Those who remained make up what is now the modern Delaware Nation.⁵³ In 1775, the Delaware signed one of the first treaties, the Treaty of Greenville, following an alliance with the Shawnee against the new United States Government that saw the Delaware defeated at the Battle of Fallen Timbers.⁵⁴ The treaty called for the Delaware never to take up arms against the United States and settled them along the White River in modern Indiana. At this time, the Delaware developed a more centralized and politically conservative identity, one that blamed Christianity for their loss to the U.S. army.⁵⁵ In 1818, the

⁴⁹ Bruce Obermeyer, *Delaware Tribe in a Cherokee Nation*, (Lincoln: University of Nebraska Press, 2009), 37-8.

⁵⁰ *Ibid.*, 38, 40.

⁵¹ *Ibid.*, 41.

⁵² *Ibid.*, 42.

⁵³ *Ibid.*, 43-5.

⁵⁴ *Ibid.*, 45.

⁵⁵ *Ibid.*, 45.

Delaware signed the Treaty of St. Mary's that ceded all their land in Indiana for a new homeland "upon the west side of the Mississippi" along with "a perpetual annuity of four thousand dollars".⁵⁶ The treaty put the Delaware in modern Missouri before another relocation by the Treaty of James Fork in 1829, this time to Kansas.⁵⁷ In their new homeland, the Delaware went through numerous changes. Gone now were the more conservative members who had opposed Christian missionaries, replaced with a more liberal leadership that welcomed missionaries into their homeland.⁵⁸ The Delaware became educated and prospered, finally in a homeland to call their own. However, things began to crumble during the Civil War, when white encroachment and railroad speculation led to pressure for the relocation of the Delaware to a more suitable location.⁵⁹ The solution for the United States lay in the Indian Territory.

The United States Government hoped to move the Delaware into the Indian Territory, but needed permission from its inhabitants to obtain the land necessary to do so. U.S. negotiators brought up the Delaware issue numerous times during their talks with the Cherokee Nation. Aware of this, the Cherokee seemed willing to part with some of their land; hence, the Cherokee National Council's request that delegations meeting U.S. officials get a good price for any Cherokee land that might be sold. However, the Delaware situation gave John Ross and the Cherokee officials a political advantage, and they refused to address the Delaware issue until Cherokee grievances had been met.⁶⁰ In a letter to Commissioner of Indian Affairs, William Dole Ross wrote that the Cherokee wanted to "advance the happiness and welfare of our Red brethren... [but] are unwilling to sell any part of their domain that lies South of Kansas... we have however, expressed a willingness to receive among the Cherokee upon terms just and liberal, the Delawares who reside in that state."⁶¹ Ross finished the letter telling Dole that the Cherokee were ready and willing to negotiate for the purpose of accepting the Delaware, but six days later when James Steele became the new Commissioner of Indian Affairs, Ross informed Steele that the Cherokee were not ready to meet.⁶²

⁵⁶ Treaty with the Delawares, October 3, 1818, in *Indian Affairs: Laws and Treaties, Volume II, Treaties*, 170.

⁵⁷ Treaty with the Delawares, September 24, 1829, in *Indian Affairs: Laws and Treaties, Volume II, Treaties*, 304.

⁵⁸ Obermeyer, *Delaware Tribe in a Cherokee Nation*, 47.

⁵⁹ *Ibid.*, 53.

⁶⁰ John Ross to James Steele, June 8, 1864, *The Papers of John Ross*, 587.

⁶¹ John Ross to William P. Dole, May 25, 1864, *The Papers of John Ross*, 580.

⁶² John Ross to James Steele, May 31, 1864, *The Papers of John Ross*, 580-1.

John Ross' delays went against the Cherokee Council's instructions to make a new treaty as soon as possible, but he was trying to fulfill the other part of those instructions by trying to get favorable terms for the Cherokee Nation. Commissioner Steele was well aware of these tactics, and as negotiations continued he wrote to Ross "that in case an arrangement cannot be effected whereby the Delawares shall obtain a home in the Cherokee Country upon terms satisfactory to them, our negotiations may be considered at an end."⁶³ The Government was willing to play politics as well, denying the Cherokee the new treaty and payments until the Delaware issue had been dealt with. In response, Ross acknowledged this goal but added that while the Cherokee would be willing to take in the Delaware, they were not willing to sell their land South of Kansas.⁶⁴ Ross explained that "to do so would afford [us] no immediate relief" and they were unsure they could get a fair price for their land.⁶⁵ The payment of much needed funds, the protection of their people, and a restriction on traders and other trespassers from Kansas into their homeland was more important than the fate of the Delaware. However, the Cherokee and the Delaware did discuss the issue together. The Cherokee offered to take the Delaware people into their land "upon a[n] equal footing with our own people," but with conditions: the Delaware would contribute "to that equal invested by the Cherokee Nation for the annuity, school [, and] orphan funds[,] and the Delaware pay a bonus for the right to settle on Cherokee land."⁶⁶ In exchange for these conditions, the Delaware would "retain [and] control absolutely all their funds" and "enjoy rights in all respect with the Cherokee as to laws, votes, [and] schools."⁶⁷ The Delaware refused these terms, as it would not provide them with a new homeland of their own; rather they would be paying to become a part of the Cherokee Nation. The Cherokee and United States went back and forth on the subject, with neither side giving any ground. This all changed when the Civil War ended.

TRAITORS

He stood stoically in a war-torn grey uniform, his long, flowing gray hair swaying silently in the wind. Confederate Brigadier-General Stand Watie was awaiting the arrival of two

⁶³ John Ross to James Steele, June 8, 1864, *The Papers of John Ross*, 585.

⁶⁴ *Ibid.*, 586.

⁶⁵ *Ibid.*, 587.

⁶⁶ *Ibid.*, 586.

⁶⁷ *Ibid.*, 586.

Union officials, Lieutenant Asa C. Matthews and Adjutant William H. Vance, at a predetermined meeting place near Doaksville in Choctaw territory.⁶⁸ It had been a long four years for Watie and the entire Cherokee Nation. Although he fought valiantly long after others had surrendered, now was his day of surrender. On 23 June 1865, two months after Robert E. Lee surrendered, Watie became the last Confederate General to turn his sword over to Union officials. Two Civil Wars ended.

With the war at its end, the Cherokee people breathed a sigh of relief; now the Cherokee Nation could return to its full glory. Fighting, acts of outlaws, and heavy foraging by both sides had destroyed the once prosperous Cherokee Nation. At the Civil War's end, nearly one third of all Cherokee people had died and nearly one quarter of all Cherokee children were orphans.⁶⁹ The end of the Civil War left the Cherokee wanting to return to normal, which required reconciliation between John Ross' camps and Stand Watie's followers. During the war, Watie and his followers never left the Confederate cause, perhaps because of Cherokee politics. The desertion of John Ross and his followers finally gave Watie the opportunity to assume absolute control of the Cherokee Nation. A desertion of the Confederate cause by Watie would also have led to forfeiture of his claim to power over the Cherokee Council. Abandoning the Confederacy left only one alternative for the Confederate Cherokee: placing their fate in the hands of their Cherokee enemies. It was only when no other option was available that Watie surrendered and ended the Civil War for the Cherokee Nation. At the same time as reconciliation began for the rest of the United States, the Cherokee Nation attempted a reconciliation of their own.

The reunification of the Cherokee Nation was going to be a difficult ordeal, as the division between the Cherokee people grew to enormous proportions. The two groups often clashed during guerilla attacks and raids in the Cherokee Nation during the war. While the Third Indian Home Guard never fought Stand Watie's Cherokee in direct battle, the Second Indian Home Guard met Watie at the Second Battle of Cabin Creek on 19 September 1864.⁷⁰ Union Cherokee accused Watie's regiment of massacring the "Pins" serving in the Second Indian Home Guard during the battle.⁷¹ The two groups, who in some reports took pleasure in killing their former brethren, now needed to coexist. This was going to be difficult, as the John Ross

⁶⁸ Hauptman, *Between Two Fires*, 41.

⁶⁹ Gaines, *The Confederate Cherokee*, 124.

⁷⁰ Hauptman, *Between Two Fires*, 55-7.

⁷¹ *Ibid.*, 57.

Cherokee had taken measures to undermine and hurt the Confederate Cherokee, such as ending slavery and the confiscation of their property. Stand Watie, his followers, and their families were waiting in Texas and Arkansas until they felt safe to return to the Cherokee Nation.⁷² When the time came for peace, Acting Principal Chief Lewis Downing offered an “amnesty and pardon to all citizens who participated in the Rebellion” and “invite[d] all such citizens to return to the Cherokee Nation.”⁷³ However, the amnesty maintained the earlier confiscation act and prohibited the “right to possess and recover any improvements” owned by “person declared...disloyal to the Cherokee Nation.”⁷⁴ The Union Cherokees went further, stating, “The Cherokee Nation is not to be understood by their present action as recognising the said Cherokees in any other capacity than as private person[s], nor as representing any Government,” refusing to acknowledge the legitimacy of the Cherokee National Council under Stand Watie.⁷⁵ Both sides claimed power. Ross’ camp had allied with the victorious Union army. Stand Watie’s group laid claim to being part of the Cherokee Nation that cohesively joined the Confederacy at the beginning of the war. The power struggle between the two sides proved to be beneficial for the United States Government when treaty negotiations began.

The Ross faction were happy to continue their treaty negotiations with the now victorious United States Government. The sacrifices made by the Cherokee Third Indian Home Guard would finally produce just rewards. Following Abraham Lincoln’s assassination, the new President, Andrew Johnson, sent new Commissioner of Indian Affairs Dennis Cooley and a commission to meet with the Five Civilized Tribes. A peace conference took place at Fort Smith on 8 September 1865, called by the Native groups themselves in hopes of restoring harmony in the Indian Territory.⁷⁶ Third Indian Home Guard leaders William Ross, Smith Christie, Thomas Pegg, and Lewis Downing were the Cherokee representatives at the meeting; Stand Watie’s Cherokee and other groups loyal to the Confederacy were not yet present.⁷⁷ However, Cooley dashed all hopes for reconciliation when he spoke:

⁷² Richards Fields, et al., to Honorable Commissioners, September 20, 1865, in *Cherokee Cavaliers*, 237.

⁷³ Lewis Downing Amnesty Proclamation, July 14, 1865, in *The American Indian and the End of the Confederacy 1863-1866* by Annie Heloise Abel, 160.

⁷⁴ *Ibid.*, 159.

⁷⁵ Reply to Delegate of the Grand Council &c, July 14, 1865, in *The American Indian and the End of the Confederacy*, 160.

⁷⁶ Report No. 104, June 28, 1865, *Report of Commissioner of Indian Affairs, Year of 1865*, 295.

⁷⁷ *Ibid.*, 297.

“By these nations having entered into treaties with the so-called Confederate States, and the rebellion being now ended, they are left without any treaty whatever, or treaty obligation for protection by the United States.

Under the terms of the treaties with the United States, and the laws of Congress of July 4, 1852, all these nations and tribes forfeited and lost all their rights to annuities and lands. The President, however, does not desire to take advantage of or enforce the penalties for the unwise actions of the nations.”⁷⁸

With those words, the U.S. government labelled the Cherokee and the other members of the Five Civilized Tribes as traitors. The tribes were in shock. The Cherokee in particular were surprised, for they had fought hard for the Union army after having little alternative than to join the Confederacy when the United States initially broke their treaty obligations. Captain Smith Christie, from A Company, responded, “The Cherokee delegation were not aware until this morning of the object of this council,” and promptly withdrew from the session.⁷⁹ Cooley did not even wait for the arrival of Stand Watie’s group. The Confederate Indians had met prior to the Fort Smith meeting at Armstrong Academy and decided to join the council after the initial proceedings. Rather, Cooley pointed the finger of blame at the Cherokee Nation as a whole.⁸⁰ Had Cooley forgotten the sacrifice of the Union Cherokee soldiers? Two reasons may explain why Cooley and the commission decided to attack John Ross’ leadership. Perhaps the commission genuinely felt that John Ross was the cause of the Cherokee betrayal. More likely, Cooley’s action had little to do with loyalty or disloyalty, but rather this was an opportunity for the United States Government to take the upper hand in negotiations with both the Cherokee and the rest of the Five Civilized Tribes. Cooley himself was well aware of the loyalty of the Cherokee present, as he wrote in his report, “The delegation from the disloyal Indians had not arrived”, referring to those who fought for the Confederacy, including Stand Watie’s Cherokees.⁸¹ Rather than having to deal with both the Cherokee and the rest of the Five Civilized Tribes on equal footing, the United States now treated their former allies as defeated nations, which allowed the government to dictate the terms of any new treaties. The government’s intentions became clear in one of Cooley’s seven stipulations that were present

⁷⁸ Ibid., 298.

⁷⁹ Report No. 106, September 8, 1865, *Report of Commissioner of Indian Affairs, Year of 1865*, 314.

⁸⁰ Minges, *Slavery in the Cherokee Nation*, 167.

⁸¹ Report 105 ½, October 30, 1865, *Report of Commissioner of Indian Affairs, Year of 1865*, 297.

during his accusation of treason: “A portion of the lands hitherto owned and occupied by you must be set apart for the friendly tribes in Kansas and elsewhere.”⁸² The stipulation allowed the United States Government to impose a land cession to the Delaware Nation.

The Cherokee objected to Cooley’s claims, reminding the commission that many factors forced the Cherokee to ally with the Confederacy, but that they were quick to re-establish ties with the United States when the opportunity arose.⁸³ Hoping that John Ross would smooth things out, the Cherokee tried to buy time by telling Cooley they were unwilling to consult further at that time due to illness.⁸⁴ Ross arrived at Fort Smith about a week after Watie and the rest of the Confederate Indians arrived. He quickly asked to speak with Commissioner Cooley, but his request was denied.⁸⁵ Cooley presented a letter from the Commission that stated that the government “believe[d] [Ross] still at heart an enemy of the United States and disposed to breed discord among the people...and is not the choice of any considerable portion of the Cherokee Nation for the office he claims.”⁸⁶ The letter further stated that the United States Government refused to recognize Ross as chief of the Cherokee Nation.⁸⁷ The Cherokee were taken aback by these accusations; not only had their loyalty been challenged, but now also their sovereignty. Making matters worse, when Elias Boudinot arrived at the council with Stand Watie, he condemned Ross to Commissioner Cooley. He blamed all the division within the Cherokee Nation and their treaty with the Confederacy on Ross.⁸⁸ However, Cooley put a stop to these accusations by saying “the purpose of this council is not to stir up old feelings...I trust that no one may come into this council and attempt to stir up bad feelings which ought to have been buried years ago.”⁸⁹ These words rang true to a degree, as Cooley did not aim to split the Cherokee Nation, but rather intended to give the United States Government the upper hand in future negotiations. The division between the two factions of the Cherokee Nation became beneficial for Commissioner Cooley when dealing with the Cherokee, as he played the two sides against each other. That strategy backed the Cherokee Nation into a corner. When the Fort Smith

⁸² Ibid., 299.

⁸³ Ibid., 308.

⁸⁴ Ibid., 302.

⁸⁵ Mingos, *Slavery in the Cherokee Nation*, 168.

⁸⁶ Report 105½, 304.

⁸⁷ Ibid., 305.

⁸⁸ The Report of Wilson of the New York Harold in *The American Indian and the End of the Confederacy*, 205.

⁸⁹ Ibid., 205.

Council concluded on 21 September 1865, peace had not been achieved. The Council had only been successful in further dividing the Cherokee Nation and breaking John Ross, who collapsed and had to be confined to his bed for a week. His health continued to decline as negotiations continued.

In October 1865, the Cherokee Council met in its entirety for the first time since prior to the Civil War, predominantly made up of the Union Cherokee, as the Confederates worried for their safety. First, the council addressed the John Ross situation, releasing a call for “the United States to do full justice to John Ross, Principal Chief of the Cherokee Nation, upon a fair and impartial investigation.”⁹⁰ The Council followed this by making Reverend Evan Jones, who served as chaplain for the Third Indian Home Guard, into a full Cherokee citizen by forgoing the marriage clause by using his time as missionaries as a rationale for citizenship, in order to allow the Jones’ to be legitimate representatives in Cherokee negotiations with the government.⁹¹ Next, the Council needed to address the newly freed slaves in their nation. The Council concluded three options: 1) To have the Cherokee freedmen removed from the Nation at the joint expense of the Cherokee and U.S. Government and placed in a new colony; 2) To place the freedmen on a part of the Cherokee land until the situation could be resolved; or 3) To adopt them into the Cherokee Nation with full citizenship.⁹² The Council adopted the third option, and the freedmen became members of the tribe.

On 18 January 1866, a delegation made up of John Ross, Smith Christie, Thomas Pegg, James McDaniel, White Catcher, Daniel Ross, John Jones, and Sam Bengé met in Washington, D.C. bringing two documents to present to the U.S. Government: *Memorial of the Delegates of the Cherokee Nation to the President of the United States and the Senate and House of Representatives* and *Communication of the Delegation of the Cherokee Nation to the President of the United States*.⁹³ The first document, presented to President Johnson, Commissioner Cooley, and Secretary of the Interior James Harland, detailed the political divide within the Cherokee Nation. The memorial noted the loyalty by notable members of the Keetoowah Cherokee during the U.S. Civil War by stating that their “opposition to the rebels was intense,” describing the “patriotic sufferings” of their refugees, and claiming that the division amongst the Cherokee was

⁹⁰ Minges, *Slavery in the Cherokee Nation*, 170.

⁹¹ *Ibid.*, 171.

⁹² *Ibid.*, 172.

⁹³ Minges, *Slavery in the Cherokee Nation*, 172.

between “the loyal and disloyal.”⁹⁴ The Cherokee further argued that many of the loyal Cherokee had religious views, whether Christian or traditional Cherokee, that opposed slavery. While some of their members “were pro-slavery in their sentiments,” they still “loved their country better than slavery.”⁹⁵ With this document, the Cherokee reminded the U.S. Government of the Cherokee Nation’s civilization progress as a way to secure better treatment in negotiations.⁹⁶ In addition, while emphasising the loyalty of the Keetoowah, who made up the majority of the Cherokee Nation, it shifted blame for the Cherokee alliance with the Confederacy to the Knights of the Golden Circle.

The second document, the *Communication of the Delegation*, began by arguing in favor of the status of John Ross and further shifted blame for any disloyalty to Stand Watie and his followers, going so far as to name Watie’s group as dangerous when backed by the Confederate army.⁹⁷ The document continued by describing the Cherokee attempts to stay neutral, but due to the actions of the Knights, “the masses of the Nation had organized...to keep from office and power every man suspected of treasonable designs against the Nation and Federal Government.”⁹⁸ When the competing delegation made up of Stand Watie, John Rolling Ridge, Saladin Watie, Elias Boundinot, and Williams Penn Adair learned of these documents, they were quick to defend themselves. Watie’s delegation did not deny their affiliations with the Confederacy, but rather focused on their rationale in forming the Knights to counteract the power of John Ross and the Pin society.⁹⁹ The Southern Cherokee only asked for a “fair, dispassionate investigation of the merits of the difference between us and the pretended ‘loyal Cherokees.’”¹⁰⁰ This implication of John Ross’ Cherokee as traitors fell right into Cooley’s hands. U.S. negotiators treated Watie’s delegation as the legitimate representatives of the Cherokee

⁹⁴ Smith Christie et al, *Memorial of the Delegates of the Cherokee Nation to the President of the United States and the Senate and the House of Representatives*, (Washington, D.C.: Washington Chronicle Print, 1866), 3 and 6.

⁹⁵ Ibid., 3.

⁹⁶ Ibid., 9.

⁹⁷ Minges, *Slavery in the Cherokee Nation*, 174.

⁹⁸ Ibid., 174.

⁹⁹ Memorial by Elias Cornelius Boundinot and William Penn Adair, in *Reply of the Southern Cherokees to the Memorial of Certain Delegates from the Cherokee Nation, Together with the Message of John Ross, Ex-Chief of the Cherokees, and Proceedings of the Council of the Loyal Cherokees, Relative to the Alliance with the So-Called Confederate States*, (Washington, D.C.: McGill & Witherow Printers, 1866), 5 and 8.

¹⁰⁰ Ibid., 12.

Nation.¹⁰¹ U.S. officials were not unaware of the actions of Watie's Cherokee, but this was a politically-motivated move to improve the government's negotiation position. The United States not only treated the Cherokee as a defeated nation, but the division within the Cherokee allowed the government to extract further concessions during negotiations.

By April 1866, the Choctaw and Chickasaw had signed new treaties with the U.S. Government; the Creeks and Seminole followed soon after.¹⁰² In July, officials presented a new treaty with many clauses that went against the Cherokee's best interests. Unfortunately, the Cherokee had little choice then but to sign the treaty, as the U.S. Government would withhold much-needed Cherokee funds or would simply negotiate with Stand Watie's delegation if they did not like the terms provided.¹⁰³ Whichever faction made the new treaty would claim the right to power in the Cherokee Nation; Ross's delegation wanted to be sure it was them. Watie's group had been in negotiation with the government and were under the impression that the government would sign a treaty with them to divide the Cherokee Nation in half.¹⁰⁴ John Ross was against separating the nation, as it would weaken their power. On 19 July 1866, the Cherokee signed a new treaty that kept the Cherokee Nation intact. John Ross was still bedridden and Thomas Pegg had died; Smith Christie, John B. Jones, White Catcher, James McDaniel, Samuel H. Benge, and Daniel Ross signed on behalf of the Cherokee Nation.¹⁰⁵ John Ross died the next day. The treaty provided amnesty for all Cherokee for any crimes that took place during the war, voided the Confederate treaty and repealed all confiscation Cherokee laws against Watie's faction.¹⁰⁶ It is worth noting that the treaty refers to John Ross as "Principal Chief of the Cherokee," an acknowledgement of Ross' standing in the Nation that the Cherokee desired following Cooley's contrary declaration at Fort Smith.¹⁰⁷ However, as a defeated Nation, the treaty forced the Cherokee to concede a large tract of their land in the State of Kansas for settlers, as well as give up land for railroads and U.S. courts to be constructed.¹⁰⁸

¹⁰¹ J. W. Washbourne to J. A. Scales, July 1, 1866, in *Cherokee Cavaliers*, 244.

¹⁰² Minges, *Slavery in the Cherokee Nation*, 176.

¹⁰³ John Ross to Andrew Johnson, May 4, 1866, *The Papers of John Ross*, 677.

¹⁰⁴ J.W. Washbourne to J. A. Scales, June 1, 1866, *Cherokee Cavaliers*, 244.

¹⁰⁵ Treaty with the Cherokee, July 19, 1866, *Indian Affairs: Laws and Treaties Vol. II, Treaties*, 942 and 950.

¹⁰⁶ *Ibid.*, 942-3.

¹⁰⁷ *Ibid.*, 942.

¹⁰⁸ *Ibid.*, 944-5 and 947.

When members of Watie's delegation learned of these terms, they were outraged. Elias Boundinot wrote to Watie "We have been beaten; that is to say we have not been successful in securing an absolute separation."¹⁰⁹ William Penn Adair wrote that the Pins should kill their delegation for giving up "7 or 8,000,000 of our best country to our worst enemies for nothing."¹¹⁰ This statement reflects the Cherokee law that prohibited selling land under the punishment of death, as had happened to the Treaty Party members who signed over Cherokee land in the Treaty of New Echota in 1835. However, Adair and the rest of Watie's delegation ignored their own role in forcing the Ross faction to accept the less-than-ideal terms. They also overlooked the amnesty and voiding of the Cherokee confiscation laws provided to appease the Southern delegation. Had Watie's side not attacked Ross' legitimacy during treaty negotiations and tried to interject themselves as representatives of the Nation, then negotiations might have gone better for the Cherokee people.

NEW TREATY

Given the circumstances, the Cherokee achieved positive terms in the new treaty compared to their fellow Civilized Tribes, notably the Creeks. The Creek treaty placed all blame for allying with the Confederacy on the Creeks. The Cherokee Treaty included no such declaration.¹¹¹ Both the Cherokee and the Creek treaties required land cessions to the United States Government, but while the Creeks compensation was for 35 cents per acre the Cherokee received between \$1 and \$1.25 per acre based upon a two-man survey.¹¹² The treaty allowed the Cherokee the right to choose one member of this surveying crew, while the Creeks were not given the same opportunity.¹¹³ The Cherokee, like the rest of the Five Civilized Tribes, abolished slavery and welcomed those freedmen to become full Cherokee citizens.¹¹⁴ However, members of John Ross' party went further by providing no compensation for former slave owners.¹¹⁵ This provision punished members of the Knights, who made up the majority of the slave owners in the Cherokee Nation. That clause did not appear in any of the other new treaties.

¹⁰⁹ Elias Boundinot to Stand Watie, July 25, 1866, *Cherokee Cavaliers*, 247.

¹¹⁰ Minges, *Slavery in the Cherokee Nation*, 177.

¹¹¹ *Treaty with the Creeks*, June 14, 1866, *Indian Affairs: Laws and Treaties*, 931.

¹¹² *Ibid.*, 933; *Treaty with the Cherokee*, July 19, 1866, 947.

¹¹³ *Ibid.*, 947.

¹¹⁴ *Ibid.*, 943-4.

¹¹⁵ *Ibid.*, 944.

The treaty also recognized the contribution of the Keetoowah supporter Evan Jones with a \$30,000 payment, granted the Cherokee Council approval over all traders into the Nation, and ensured retention of judicial power “in all civil and criminal cases within their country.”¹¹⁶ Most important was Article 15, which dealt with the settling of friendly tribes in the Cherokee Nation. Unlike the Creek, who were forced by the treaty to take on the new tribes unconditionally, the Cherokee treaty allowed them to accept friendly tribes “on such terms as may be agreed upon by any such tribe and the Cherokees.”¹¹⁷ This maintained Cherokee sovereignty regarding citizenship of their own nation.

The Cherokee Nation entered into negotiations with the Delaware Nation until both Nations signed an agreement on 8 April 1867. Article 4 of the Delaware Treaty with the U.S. Government allowed the Delaware to purchase land of their choosing in exchange for selling their land in Kansas.¹¹⁸ In the *Article of Agreements Between the Cherokee Nation and Delaware*, the Cherokee agreed to “sell to the Delaware for their occupancy, a quantity of land east of the line of ninety-six degrees west longitude” of “160 acres of land for each individual of the Delaware Tribe.”¹¹⁹ The cost for the land was \$1 per acre for each Delaware citizen registered on 18 February 1867.¹²⁰ Once the Delaware purchased said land, then “all the members of the tribe, registered as above provided, shall become members of the Cherokee Nation, with the same rights and immunities” and the children “born of such Delaware so incorporated into the Cherokee Nation, shall in all respects be regarded as native Cherokee.”¹²¹

The Cherokee converted a potentially bad situation - the loss of land to the Delaware-into a positive one that strengthened the Cherokee Nation by the absorption of the Delaware. More Cherokee citizens meant more funds, where payments were based on population, and more political influence when dealing with the U.S. and with other tribes. The Cherokee achieved all this while requiring the Delaware to pay to become Cherokee citizens. The Cherokee sold land without losing anything.

¹¹⁶ Ibid., 944-5, 949.

¹¹⁷ Ibid., 946.

¹¹⁸ *Treaty with the Delaware*, July 4, 1866, Indian Affairs: Laws and Treaties, 938-9.

¹¹⁹ *Article of Agreements Between the Cherokee Nation and Delaware*, April 8 1867, <http://www.oklahomagenealogy.com/articlesofagreement.htm> (accessed on September 6, 2016).

¹²⁰ Ibid.

¹²¹ Ibid.

CONCLUSION

The Civil War turned the once prosperous Cherokee Nation into a land of burnt homes, crop-less fields, and broken families. The Cherokee not only feared the bullets of their enemies but also starvation, exposure, cattle rustlers, and disease. They looked towards their leadership, whether Principal Chief John Ross or Third Indian Home Guard Colonel William A. Phillips, to provide the relief necessary for survival. Although away from the Cherokee Nation, Ross worked hard both to obtain relief and to strengthen sovereignty for the Cherokee Nation. Despite the need for immediate relief, Ross knew the Cherokee held the upper hand in negotiations with the U.S. Government regarding the removal of the Delaware Nation. However, he lost any diplomatic advantage following the war when Commissioner of Indian Affairs Dennis Cooley declared the Cherokee to be traitors, allowing the U.S. Government to treat them as a defeated nation. The Cherokee faced further challenges when U.S. officials threatened their sovereignty by refusing to acknowledge Ross as Principal Chief of the Cherokee Nation. Government officials negotiating with Stand Watie's faction forced the Union Cherokee to make many concessions in negotiations. Despite these concessions, the Cherokee strengthened their own sovereignty by having Ross' leadership recognized. The Cherokee Nation remained intact and able to dictate the terms of the addition of the Delaware into the Cherokee Nation. The Cherokee may have lost the war in the eyes of some; however they not only retained, but also strengthened their sovereignty in that defeat. In time, peace resumed in the new Cherokee Nation, which began to thrive once again. Nevertheless, the effects of the war were long-lasting.

Chapter 5

Ripples in the Water

THIRD INDIAN HOME GUARD RECAP

Throughout the history of the Cherokee Nation, their goals remained the same. Whether siding with foreign nations in wars or taking an active role in the U.S. Civil War, the Cherokee fought for their own sovereignty, choosing to side with whomever best forwarded their agenda. Challenges to Cherokee sovereignty required action. However, internal conflicts in the Cherokee Nation did play a part in which side Cherokee citizens fought for; but again, they did so with their own goals and agendas in mind outside of the larger Civil War umbrella.

With their way of life ending, the Cherokee sought to maintain their entity by embracing the civilization programs. The civilization programs shifted the Cherokee from a matrilineal agricultural society to a more predominantly Southern economic society, using African slaves as the primary labour force and bringing the Cherokee Nation wealth and education. Rather than replace the traditional Cherokee communal lifestyle, the civilization programs only strengthened them, as the Cherokee continued to hold their land communally. The Cherokees' resolve to maintain their lifestyle conflicted with need for land, leading to their sovereignty being challenged and acknowledged through the courts. However, internal divisions within the Cherokee Nation saw a minority sign over the Cherokee homeland in favor of a land in Oklahoma. Despite Senate ratification, the majority of the Cherokee rejected the treaty and were forcibly removed from their homes. Upon their arrival into the Indian Territory, the Cherokee blood feud escalated with many deaths before peace returned to the Cherokee Nation.

However, the U.S. Civil War reinvigorated the old feuds; the ensuing alliance with the Confederacy can be traced to internal divisions. The Cherokee changed a bad situation into an opportunity to strengthen their own sovereignty. The treaty signed with the Confederacy guaranteed the Cherokee a representative in the Confederate Congress, the right to communal living, the right of self-government within their borders, and immunity from State laws imposed over Cherokee. In exchange, the Cherokee agreed to create mounted regiments to serve the Confederate Army. However, disillusion among John Drew's regiment, due to broken promises by the government saw many Cherokee desert the Confederacy. In time, the Union Army

reclaimed the Cherokee Nation, leading to a change in allegiance and the formation of the Third Indian Home Guard.

Under the command of Colonel William Addison Phillips the Union Cherokee soldiers received improved training and support. Despite mixed reaction from army officials, the Third Indian Home Guard fought well for both the Union and the Cherokee Nation. The goals of the Cherokee became clear when Principal Chief John Ross negotiated relief on behalf of the war refugees. During negotiations with U.S. officials, Ross attempted to strengthen Cherokee sovereignty, such as requesting to turn the Indian Territory into its own military district. Ross used the Cherokees' situation, along with constant reminders of past offences against the Cherokee people by the U.S. Government, to gain the most benefits for himself and the Cherokee Nation as a whole. The United States Government had an agenda of their own, as they were in need of land to remove the Delaware Nation from their homeland in Kansas. Negotiations continued back and forth until the U.S. gained the upper hand with the end of the Civil War.

No longer needing the Cherokee as military allies, U.S. officials declared the Cherokee, along with other tribes within the Indian Territory, as traitors, and dealt with them as a defeated nation. Despite these setbacks, the Cherokee were able to receive overall favorable terms in the new treaty while allowing the U.S. Government to obtain what they wanted; namely, a home for the Delaware people. The Cherokee Nation, and the Third Indian Home Guard in particular, considered themselves their own sovereign nation, and fought throughout their history to have their sovereignty confirmed. Members of the Third Indian Home Guard were typically members of the Keetoowah Nighthawk Society, who believed in the preservation of the traditional values and opposed the numerous changes within the Cherokee Nation, such as an American interpretation of slavery. The Cherokee joined the Civil War of their own agency and with their own goals, and continue to fight for recognition right up to modern times.

The Dawes Act, signed in February 1887, was created by U.S. officials as means to end the Native tribal system by providing Native Americans private home allotments.¹ The idea behind the Dawes Act was that once the Native Americans obtained private property, away from the communal ownership, that Native American people could assimilate fully into American

¹ Rose Stremlau, *Sustaining the Cherokee Family: Kinship and the Allotment of an Indigenous Nation*, (Chapel Hill: University of North Carolina Press, 2011), 88-9.

society.² The Dawes Act excluded the Cherokee Nation, because their land ownership was protected by the U.S. Government through the Indian Removal Act.³ However, an amendment to the Dawes Act in 1898 by Senator Charles Curtis allowed the government to allot the Cherokee without the tribe's consent.⁴ Seeing this as an attack on their sovereignty to live as they pleased, the Cherokee were quick to fight back. When the Supreme Court upheld the amendment, the Cherokee reluctantly negotiated allotments in 1902, in order to have a say in the dictation of their own future.⁵ The Cherokee allotment completion in 1907 created two rolls: one for the Cherokee Freedmen, and one for the Cherokee by blood.⁶ The Dawes Act is the source of contention within the Cherokee Nation's fight for sovereignty with the Delaware and the Cherokee Freedman into the modern day.

THE CHEROKEE NATION TODAY

Although the Cherokee and Delaware Nations had signed an agreement in 1867 following the U.S. Civil War which granted the Delaware acceptance within the Cherokee Nation, according to the Cherokee Delaware agreement, all Delaware born within the Cherokee Nation were considered full Cherokee citizens or Cherokee by blood.⁷ On the other hand, the Delaware born before integration into the Cherokee territory were listed as Cherokee by adoption.⁸ Over time, the Cherokee by adoption numbers disappeared, and the Cherokee by blood numbers prevailed, slowly diluting the Delaware Nation's authority within the Cherokee Nation. The Cherokee further gained authority by the Dawes Act rolls, which used the Cherokee by blood and adoption for distributing land allotments.

To be eligible for land allotment, the "Delaware people were obliged to accept a blood-quantum based identity" that saw them as Cherokee citizens rather than as their own separate identity.⁹ The Cherokee used the "Cherokee by blood to mean Cherokee Tribal membership" to strengthen their numbers within their own borders.¹⁰ In 1979, the Department of Interior

² Ibid., 88.

³ Ibid., 90.

⁴⁴ Ibid., 154.

⁵ Ibid., 154.

⁶ *Vann v. Kempthorne*.

⁷ Obermeyer, *Delaware Tribe in a Cherokee Nation*, 182.

⁸ Ibid., 183.

⁹ Ibid., 193.

¹⁰ Ibid., 191.

reinforced the Cherokee's position by declaring the U.S. Government "would only engage in government-to-government relations with the Delaware through the Cherokee Nation," as the Department of Interior saw the Delawares as members of the Cherokee Nation.¹¹ Over the years, the Cherokee Nation blocked any attempt by the Delaware to receive recognition as their own separate entity.

In 1996, the Delaware received recognition from Assistant Secretary of Indian Affairs Ada Deer, who retracted the stance of the Department of Interior and added the Delaware Nation to the list of federally recognised tribes.¹² The Cherokee Nation objected to this recognition, arguing that the Delaware were Cherokee by blood as laid out in the Agreement Between the Cherokee And Delaware Nations. In 2004, the District Court of Columbia ruled in favor of the Cherokee Nation, and declared "The Delaware Tribe incorporated itself into the Cherokee Nation and abandoned its tribal sovereignty when it entered into the 1867 agreement."¹³ With the court's ruling against them, the Delaware began negotiations with the Cherokee Nation to pursue federal recognition, as the Cherokee Nation held the lobbying power that could block any further attempts at recognition. In 2007, Cherokee Chief Chad Smith and Delaware Chief Jerry Douglas came to an agreement allowing the Delaware to pursue federal recognition, but maintained Cherokee controls within their borders, such as the right to tax and regulate Delaware activities within the Cherokee Nation.¹⁴ On 11 August 2009, the Delaware attained federal recognition, making the Delaware eligible for all programs and services available to any recognized tribe in the United States.¹⁵ The Cherokee only allowed the Delaware to achieve this after the acknowledgment of their sovereignty.

The battle for Cherokee sovereignty did not lie exclusively with the Delaware issue; the Cherokee continued the fight at the expense of the rights of Cherokee Freedmen. The Freedmen are the descendants of the former Cherokee Nation's slaves who were granted citizenship according to the 1866 Treaty. However, the Cherokee sought to assert their sovereignty by taking control over their own citizenship criteria. In 1983, the Cherokee Tribal Council added to the Cherokee National Code that "tribal membership is derived only through proof of Cherokee

¹¹ *Cherokee Nation v. Norton*, 03-5055 (10 Cir. 2004)

¹² *Ibid*; Obermeyer, *Delaware Tribe in a Cherokee Nation*, 17.

¹³ *Cherokee Nation v. Norton*.

¹⁴ Obermeyer, *Delaware Tribe in a Cherokee Nation*, 265.

¹⁵ *Ibid.*, 263-4.

blood on the Daws Rolls.”¹⁶ The changes to the citizenship requirements denied the Cherokee Freedmen the right to vote in the 1983 Cherokee general election, as they were on the Freedmen rolls and not the blood rolls.¹⁷ This addition wiped away full citizenship for the Cherokee Freedmen within the Cherokee Nation; when the Freedmen complained, Federal officials asserted that United States courts had no jurisdiction regarding Cherokee citizenship.¹⁸ The Freedmen fought back.

In 1998, Bernice Riggs, whose ancestors had fought for the Indian Home Guard but died before the Dawes Rolls, argued that although her family is traced back to the Cherokee Freedmen Rolls, her family lineage included Cherokee Blood.¹⁹ However, the Cherokee Judicial court ruled against Riggs in 2001, maintaining the status quo.²⁰ Shortly after the Riggs suit, the court was challenged with another suit from Lucy Allen, who had both Freedmen and Cherokee blood relatives, challenging the legality of the amended code.²¹ On March 2006, the Cherokee Nation Supreme Court ruled in favor of Allen, arguing the new code was unconstitutional. They noted that the 1975 Cherokee Constitution made no mention of blood qualification; rather, that “all members of the Cherokee Nation must be citizens as proven by reference to the Dawes Commission Rolls.”²²

Despite the ruling, Cherokee Chief Smith argued citizenship is a matter of sovereignty, and went from village to village to push for amendments to the Cherokee Constitution, with a special election set for 3 March 2007 to decide the matter.²³ Former Cherokee Deputy Chief John Ketcher put ads in the Cherokee Phoenix in February 2007, warning of longer lines for services if the Non-Indian Freedmen were allowed full citizenship.²⁴ The Freedmen responded to these scare tactics by pointing out that Cherokee historically did not base their citizenship on blood, but rather through kinship and adoption, backing up this claim by identifying six

¹⁶ Circe Sturm, *Race, Sovereignty, And Civil Rights: Understanding the Cherokee Freedmen Controversy*, *Cultural Anthropology* 29, no. 3 (2014), 577, <http://typhoon-production.s3.amazonaws.com/articles/ca293/ca293A07.pdf> (accessed November 27, 2016).

¹⁷ Sturm, *Race, Sovereignty, And Civil Rights*, 586.

¹⁸ *Ibid.*, 577.

¹⁹ *Ibid.*, 578.

²⁰ *Ibid.*, 578.

²¹ *Ibid.*, 578.

²² *Ibid.*, 579.

²³ *Ibid.*, 580.

²⁴ *Ibid.*, 582-3.

Cherokee Freedmen who served on the Cherokee National Council.²⁵ On the day of the special election, seventy-five percent of the voters voted in favor of changing the Cherokee citizenship requirements.²⁶ Denying the Freedmen the right to vote violated both the 1866 Cherokee Treaty and the 13th Constitutional Amendment.

These internal conflicts soon gained national media attention. Many chose to intervene on behalf of the Cherokee Freedmen; for example the notable African American Congresswoman Diane Watson who put forth a bill to the House of Congress in June 2007 to prevent the Cherokee Nation from receiving federal funding.²⁷ The bill failed, but was reintroduced in 2009, putting pressure on the Cherokee Nation.²⁸ On 14 January 2011, the Cherokee Nation District Court overturned the results of the special election, only to have the decision itself overturned on 21 August 2011 by the Cherokee Supreme Court. Following the Cherokee Supreme Court decision, the Department of Housing and Urban Development informed the Cherokee Nation that 33 million dollars in funding would be withheld if the Freedmen's rights were not reinstated.²⁹ The Cherokee Nation caved to these threats and reinstated the Cherokee Freedmen's full citizenship on 20 September 2011.³⁰

CONCLUSION

The Third Indian Home Guard represented the Cherokee's fight for sovereignty, denied to them by the United States throughout Cherokee history. The sacrifice of the Third Indian Home Guard allowed the Cherokee to continue the fight for sovereign recognition into modern times, managing to attain, through the United States courts, changes such as the decision to place the Delaware Nation under the control of the Cherokee Nation. However, sometimes the Cherokees' fight took a step backwards, such as in the Cherokee Freedmen issue, which Cherokee official Joe Crittenden called "federal threats to the tribe's sovereignty."³¹ In this case, interventions forced the Cherokee to dictate their own sovereignty based on the views and

²⁵ Ibid., 584.

²⁶ Ibid., 585.

²⁷ Ibid., 587.

²⁸ Ibid., 587-8.

²⁹ Molly O'Toole, "Cherokee tribe reaches agreement to reinstate 2,800 'Freedmen,'" *Reuters*, September 20, 2011, <http://www.reuters.com/article/us-cherokee-freedmen-idUSTRE78K08D20110921> (accessed November 27, 2016).

³⁰ Ibid.

³¹ Ibid.

reasoning of those outside of the Cherokee Nation. In part, the media focused on the racial aspects of the Freedmen issue, with little mention of Cherokee sovereignty.³² However, it should be noted this type of exclusion went against the beliefs of the Third Indian Home Guard Keetoowah society members, who held to traditional Cherokee customs that included the adoption of African American slaves into Cherokee society. Perhaps the Cherokee Freedmen citizenship situation was not the best battleground to pursue their goals, but it does show the Cherokee still feel the need to fight for their sovereign right. Nearly 150 years have passed since the Third Indian Home Guard took to the field of battle, yet the fight for sovereignty recognition is still being fought.

³² Sturm, *Race, Sovereignty, and Civil Rights*, 588.

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